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(Original Signature of Member)

108TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. TAUZIN (for himself, Mr. THOMAS, Mr. BOEHLERT, Mr. POMBO, and Mr. OXLEY) introduced the following bill; which was referred to the Committee on _____

A BILL

To enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

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Sec. 10001. Short title.



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- Sec. 11005. Procurement of energy efficient products.
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- Sec. 11046. Energy labeling.
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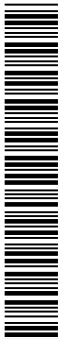
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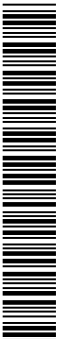
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1 **DIVISION A—ENERGY AND**
 2 **COMMERCE**

3 **SEC. 10001. SHORT TITLE.**

4 This division may be cited as the “Energy Policy Act
 5 of 2003”.



1 **TITLE I—ENERGY**
2 **CONSERVATION**
3 **Subtitle A—Federal Leadership in**
4 **Energy Conservation**

5 **SEC. 11001. ENERGY AND WATER SAVING MEASURES IN**
6 **CONGRESSIONAL BUILDINGS.**

7 (a) IN GENERAL.—Part 3 of title V of the National
8 Energy Conservation Policy Act is amended by adding at
9 the end:

10 **“SEC. 552. ENERGY AND WATER SAVINGS MEASURES IN**
11 **CONGRESSIONAL BUILDINGS.**

12 “(a) IN GENERAL.—The Architect of the Capitol—

13 “(1) shall develop, update, and implement a
14 cost-effective energy conservation and management
15 plan (referred to in this section as the ‘plan’) for all
16 facilities administered by the Congress (referred to
17 in this section as ‘congressional buildings’) to meet
18 the energy performance requirements for Federal
19 buildings established under section 543(a)(1); and

20 “(2) shall submit the plan to Congress, not
21 later than 180 days after the date of enactment of
22 this section.

23 “(b) PLAN REQUIREMENTS.—The plan shall
24 include—



1 “(1) a description of the life cycle cost analysis
2 used to determine the cost-effectiveness of proposed
3 energy efficiency projects;

4 “(2) a schedule of energy surveys to ensure
5 complete surveys of all congressional buildings every
6 5 years to determine the cost and payback period of
7 energy and water conservation measures;

8 “(3) a strategy for installation of life cycle cost-
9 effective energy and water conservation measures;

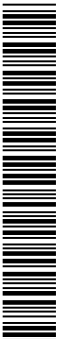
10 “(4) the results of a study of the costs and ben-
11 efits of installation of submetering in congressional
12 buildings; and

13 “(5) information packages and ‘how-to’ guides
14 for each Member and employing authority of Con-
15 gress that detail simple, cost-effective methods to
16 save energy and taxpayer dollars in the workplace.

17 “(c) ANNUAL REPORT.—The Architect shall submit
18 to Congress annually a report on congressional energy
19 management and conservation programs required under
20 this section that describes in detail—

21 “(1) energy expenditures and savings estimates
22 for each facility;

23 “(2) energy management and conservation
24 projects; and



1 “(3) future priorities to ensure compliance with
2 this section.”.

3 (b) TABLE OF CONTENTS AMENDMENT.—The table
4 of contents of the National Energy Conservation Policy
5 Act is amended by adding at the end of the items relating
6 to part 3 of title V the following new item:

“Sec. 552. Energy and water savings measures in congressional buildings.”.

7 (c) REPEAL.—Section 310 of the Legislative Branch
8 Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

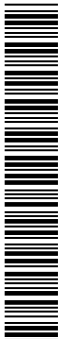
9 (d) ENERGY INFRASTRUCTURE.—The Architect of
10 the Capitol, building on the Master Plan Study completed
11 in July 2000, shall commission a study to evaluate the
12 energy infrastructure of the Capital Complex to determine
13 how the infrastructure could be augmented to become
14 more energy efficient, using unconventional and renewable
15 energy resources, in a way that would enable the Complex
16 to have reliable utility service in the event of power fluc-
17 tuations, shortages, or outages.

18 (e) AUTHORIZATION.—There are authorized to be ap-
19 propriated to the Architect of the Capitol to carry out sub-
20 section (d), not more than \$2,000,000 for fiscal years
21 after the enactment of this Act.

22 **SEC. 11002. ENERGY MANAGEMENT REQUIREMENTS.**

23 (a) ENERGY REDUCTION GOALS.—

24 (1) AMENDMENT.—Section 543(a)(1) of the
25 National Energy Conservation Policy Act (42 U.S.C.

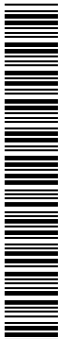


1 8253(a)(1)) is amended by striking “its Federal
 2 buildings so that” and all that follows through the
 3 end and inserting “the Federal buildings of the
 4 agency (including each industrial or laboratory facil-
 5 ity) so that the energy consumption per gross square
 6 foot of the Federal buildings of the agency in fiscal
 7 years 2004 through 2013 is reduced, as compared
 8 with the energy consumption per gross square foot
 9 of the Federal buildings of the agency in fiscal year
 10 2001, by the percentage specified in the following
 11 table:

“Fiscal Year	Percentage reduction
2004	2
2005	4
2006	6
2007	8
2008	10
2009	12
2010	14
2011	16
2012	18
2013	20.”.

12 (2) REPORTING BASELINE.—The energy reduc-
 13 tion goals and baseline established in paragraph (1)
 14 of section 543(a) of the National Energy Conserva-
 15 tion Policy Act, as amended by paragraph (1) of this
 16 subsection, supersede all previous goals and base-
 17 lines under such paragraph, and related reporting
 18 requirements.

19 (b) REVIEW AND REVISION OF ENERGY PERFORM-
 20 ANCE REQUIREMENT.—Section 543(a) of the National



1 Energy Conservation Policy Act (42 U.S.C. 8253(a)) is
2 further amended by adding at the end the following:

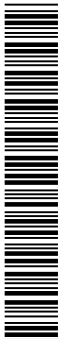
3 “(3) Not later than December 31, 2012, the Sec-
4 retary shall review the results of the implementation of
5 the energy performance requirement established under
6 paragraph (1) and submit to Congress recommendations
7 concerning energy performance requirements for fiscal
8 years 2014 through 2023.”.

9 (c) EXCLUSIONS.—Section 543(c)(1) of the National
10 Energy Conservation Policy Act (42 U.S.C. 8253(c)(1))
11 is amended by striking “An agency may exclude” and all
12 that follows through the end and inserting “(A) An agency
13 may exclude, from the energy performance requirement
14 for a fiscal year established under subsection (a) and the
15 energy management requirement established under sub-
16 section (b), any Federal building or collection of Federal
17 buildings, if the head of the agency finds that—

18 “(i) compliance with those requirements would
19 be impracticable;

20 “(ii) the agency has completed and submitted
21 all federally required energy management reports;

22 “(iii) the agency has achieved compliance with
23 the energy efficiency requirements of this Act, the
24 Energy Policy Act of 1992, Executive Orders, and
25 other Federal law; and



1 “(iv) the agency has implemented all prac-
2 ticable, life cycle cost-effective projects with respect
3 to the Federal building or collection of Federal
4 buildings to be excluded.

5 “(B) A finding of impracticability under subpara-
6 graph (A)(i) shall be based on—

7 “(i) the energy intensiveness of activities car-
8 ried out in the Federal building or collection of Fed-
9 eral buildings; or

10 “(ii) the fact that the Federal building or col-
11 lection of Federal buildings is used in the perform-
12 ance of a national security function.”.

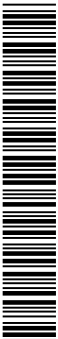
13 (d) REVIEW BY SECRETARY.—Section 543(c)(2) of
14 the National Energy Conservation Policy Act (42 U.S.C.
15 8253(c)(2)) is amended—

16 (1) by striking “impracticability standards” and
17 inserting “standards for exclusion”; and

18 (2) by striking “a finding of impracticability”
19 and inserting “the exclusion”.

20 (e) CRITERIA.—Section 543(c) of the National En-
21 ergy Conservation Policy Act (42 U.S.C. 8253(c)) is fur-
22 ther amended by adding at the end the following:

23 “(3) Not later than 180 days after the date of enact-
24 ment of this paragraph, the Secretary shall issue guide-



1 lines that establish criteria for exclusions under paragraph
2 (1).”.

3 (f) RETENTION OF ENERGY SAVINGS.—Section 546
4 of the National Energy Conservation Policy Act (42
5 U.S.C. 8256) is amended by adding at the end the fol-
6 lowing new subsection:

7 “(e) RETENTION OF ENERGY SAVINGS.—An agency
8 may retain any funds appropriated to that agency for en-
9 ergy expenditures, at buildings subject to the requirements
10 of section 543(a) and (b), that are not made because of
11 energy savings. Except as otherwise provided by law, such
12 funds may be used only for energy efficiency or unconven-
13 tional and renewable energy resources projects.”.

14 (g) REPORTS.—Section 548(b) of the National En-
15 ergy Conservation Policy Act (42 U.S.C. 8258(b)) is
16 amended—

17 (1) in the subsection heading, by inserting
18 “THE PRESIDENT AND” before “CONGRESS”; and

19 (2) by inserting “President and” before “Con-
20 gress”.

21 (h) CONFORMING AMENDMENT.—Section 550(d) of
22 the National Energy Conservation Policy Act (42 U.S.C.
23 8258b(d)) is amended in the second sentence by striking
24 “the 20 percent reduction goal established under section
25 543(a) of the National Energy Conservation Policy Act



1 (42 U.S.C. 8253(a)).” and inserting “each of the energy
2 reduction goals established under section 543(a).”.

3 **SEC. 11003. ENERGY USE MEASUREMENT AND ACCOUNT-**
4 **ABILITY.**

5 Section 543 of the National Energy Conservation
6 Policy Act (42 U.S.C. 8253) is further amended by adding
7 at the end the following:

8 “(e) METERING OF ENERGY USE.—

9 “(1) DEADLINE.—By October 1, 2010, in ac-
10 cordance with guidelines established by the Sec-
11 retary under paragraph (2), all Federal buildings
12 shall, for the purposes of efficient use of energy and
13 reduction in the cost of electricity used in such
14 buildings, be metered or submetered. Each agency
15 shall use, to the maximum extent practicable, ad-
16 vanced meters or advanced metering devices that
17 provide data at least daily and that measure at least
18 hourly consumption of electricity in the Federal
19 buildings of the agency. Such data shall be incor-
20 porated into existing Federal energy tracking sys-
21 tems and made available to Federal facility energy
22 managers.

23 “(2) GUIDELINES.—

24 “(A) IN GENERAL.—Not later than 180
25 days after the date of enactment of this sub-



1 section, the Secretary, in consultation with the
2 Department of Defense, the General Services
3 Administration, representatives from the meter-
4 ing industry, utility industry, energy services in-
5 dustry, energy efficiency industry, national lab-
6 oratories, universities, and Federal facility en-
7 ergy managers, shall establish guidelines for
8 agencies to carry out paragraph (1).

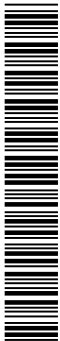
9 “(B) REQUIREMENTS FOR GUIDELINES.—

10 The guidelines shall—

11 “(i) take into consideration—

12 “(I) the cost of metering and
13 submetering and the reduced cost of
14 operation and maintenance expected
15 to result from metering and sub-
16 metering;

17 “(II) the extent to which meter-
18 ing and submetering are expected to
19 result in increased potential for en-
20 ergy management, increased potential
21 for energy savings and energy effi-
22 ciency improvement, and cost and en-
23 ergy savings due to utility contract
24 aggregation; and



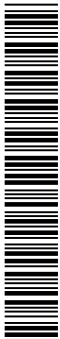
1 “(III) the measurement and ver-
2 ification protocols of the Department
3 of Energy;

4 “(ii) include recommendations con-
5 cerning the amount of funds and the num-
6 ber of trained personnel necessary to gath-
7 er and use the metering information to
8 track and reduce energy use;

9 “(iii) establish priorities for types and
10 locations of buildings to be metered and
11 submetered based on cost-effectiveness and
12 a schedule of one or more dates, not later
13 than 1 year after the date of issuance of
14 the guidelines, on which the requirements
15 specified in paragraph (1) shall take effect;
16 and

17 “(iv) establish exclusions from the re-
18 quirements specified in paragraph (1)
19 based on the de minimis quantity of energy
20 use of a Federal building, industrial proc-
21 ess, or structure.

22 “(3) PLAN.—No later than 6 months after the
23 date guidelines are established under paragraph (2),
24 in a report submitted by the agency under section
25 548(a), each agency shall submit to the Secretary a



1 plan describing how the agency will implement the
2 requirements of paragraph (1), including (A) how
3 the agency will designate personnel primarily respon-
4 sible for achieving the requirements and (B) dem-
5 onstration by the agency, complete with documenta-
6 tion, of any finding that advanced meters or ad-
7 vanced metering devices, as defined in paragraph
8 (1), are not practicable.”.

9 **SEC. 11004. FEDERAL BUILDING PERFORMANCE STAND-**
10 **ARDS.**

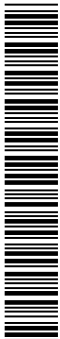
11 Section 305(a) of the Energy Conservation and Pro-
12 duction Act (42 U.S.C. 6834(a)) is amended—

13 (1) in paragraph (2)(A), by striking “CABO
14 Model Energy Code, 1992” and inserting “the 2000
15 International Energy Conservation Code”; and

16 (2) by adding at the end the following:

17 “(3) REVISED FEDERAL BUILDING ENERGY EFFI-
18 CIENCY PERFORMANCE STANDARDS.—

19 “(A) IN GENERAL.—Not later than 1 year after
20 the date of enactment of this paragraph, the Sec-
21 retary of Energy shall establish, by rule, revised
22 Federal building energy efficiency performance
23 standards that require that, if cost-effective, for new
24 Federal buildings—

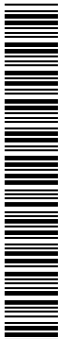


1 “(i) such buildings be designed so as to
2 achieve energy consumption levels at least 30
3 percent below those of the most recent
4 ASHRAE Standard 90.1 or the most recent
5 version of the International Energy Conserva-
6 tion Code, as appropriate; and

7 “(ii) sustainable design principles are ap-
8 plied to the siting, design, and construction of
9 all new and replacement buildings.

10 “(B) ADDITIONAL REVISIONS.—Not later than
11 1 year after the date of approval of amendments to
12 ASHRAE Standard 90.1 or the 2000 International
13 Energy Conservation Code, the Secretary of Energy
14 shall determine, based on the cost-effectiveness of
15 the requirements under the amendments, whether
16 the revised standards established under this para-
17 graph should be updated to reflect the amendments.

18 “(C) STATEMENT ON COMPLIANCE OF NEW
19 BUILDINGS.—In the budget request of the Federal
20 agency for each fiscal year and each report sub-
21 mitted by the Federal agency under section 548(a)
22 of the National Energy Conservation Policy Act (42
23 U.S.C. 8258(a)), the head of each Federal agency
24 shall include—



1 “(i) a list of all new Federal buildings
2 owned, operated, or controlled by the Federal
3 agency; and

4 “(ii) a statement concerning whether the
5 Federal buildings meet or exceed the revised
6 standards established under this paragraph.”.

7 **SEC. 11005. PROCUREMENT OF ENERGY EFFICIENT PROD-**
8 **UCTS.**

9 (a) REQUIREMENTS.—Part 3 of title V of the Na-
10 tional Energy Conservation Policy Act is amended by add-
11 ing at the end the following:

12 **“SEC. 553. FEDERAL PROCUREMENT OF ENERGY EFFI-**
13 **CIENT PRODUCTS.**

14 “(a) DEFINITIONS.—In this section:

15 “(1) ENERGY STAR PRODUCT.—The term ‘En-
16 ergy Star product’ means a product that is rated for
17 energy efficiency under an Energy Star program.

18 “(2) ENERGY STAR PROGRAM.—The term ‘En-
19 ergy Star program’ means the program established
20 by section 324A of the Energy Policy and Conserva-
21 tion Act.

22 “(3) EXECUTIVE AGENCY.—The term ‘executive
23 agency’ has the meaning given the term in section
24 4 of the Office of Federal Procurement Policy Act
25 (41 U.S.C. 403).



1 “(4) FEMP DESIGNATED PRODUCT.—The term
2 ‘FEMP designated product’ means a product that is
3 designated under the Federal Energy Management
4 Program of the Department of Energy as being
5 among the highest 25 percent of equivalent products
6 for energy efficiency.

7 “(b) PROCUREMENT OF ENERGY EFFICIENT PROD-
8 UCTS.—

9 “(1) REQUIREMENT.—To meet the require-
10 ments of an executive agency for an energy con-
11 suming product, the head of the executive agency
12 shall, except as provided in paragraph (2), procure—

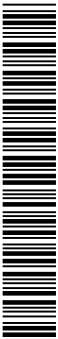
13 “(A) an Energy Star product; or

14 “(B) a FEMP designated product.

15 “(2) EXCEPTIONS.—The head of an executive
16 agency is not required to procure an Energy Star
17 product or FEMP designated product under para-
18 graph (1) if the head of the executive agency finds
19 in writing that—

20 “(A) an Energy Star product or FEMP
21 designated product is not cost-effective over the
22 life of the product taking energy cost savings
23 into account; or

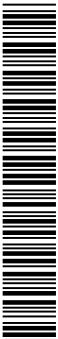
24 “(B) no Energy Star product or FEMP
25 designated product is reasonably available that



1 meets the functional requirements of the execu-
2 tive agency.

3 “(3) PROCUREMENT PLANNING.—The head of
4 an executive agency shall incorporate into the speci-
5 fications for all procurements involving energy con-
6 suming products and systems, including guide speci-
7 fications, project specifications, and construction,
8 renovation, and services contracts that include provi-
9 sion of energy consuming products and systems, and
10 into the factors for the evaluation of offers received
11 for the procurement, criteria for energy efficiency
12 that are consistent with the criteria used for rating
13 Energy Star products and for rating FEMP des-
14 ignated products.

15 “(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN
16 FEDERAL CATALOGS.—Energy Star products and FEMP
17 designated products shall be clearly identified and promi-
18 nently displayed in any inventory or listing of products
19 by the General Services Administration or the Defense Lo-
20 gistics Agency. The General Services Administration or
21 the Defense Logistics Agency shall supply only Energy
22 Star products or FEMP designated products for all prod-
23 uct categories covered by the Energy Star program or the
24 Federal Energy Management Program, except in cases
25 where the agency ordering a product specifies in writing



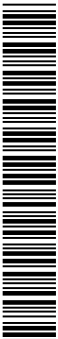
1 that no Energy Star product or FEMP designated product
2 is available to meet the buyer's functional requirements,
3 or that no Energy Star product or FEMP designated
4 product is cost-effective for the intended application over
5 the life of the product, taking energy cost savings into ac-
6 count.

7 “(d) DESIGNATION OF ELECTRIC MOTORS.—In the
8 case of electric motors of 1 to 500 horsepower, agencies
9 shall select only premium efficient motors that meet a
10 standard designated by the Secretary. The Secretary shall
11 designate such a standard within 120 days after the date
12 of the enactment of this section, after considering the rec-
13 ommendations of associated electric motor manufacturers
14 and energy efficiency groups.

15 “(e) REGULATIONS.—Not later than 180 days after
16 the date of the enactment of this section, the Secretary
17 shall issue guidelines to carry out this section.”.

18 (b) CONFORMING AMENDMENT.—The table of con-
19 tents in section 101(b) of the National Energy Conserva-
20 tion Policy Act (42 U.S.C. 8201 note), as amended by sec-
21 tion 11001(b) of this division, is further amended by in-
22 serting after the item relating to section 552 the following:

“Sec. 553. Federal procurement of energy efficient products.”.



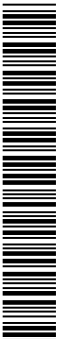
1 **SEC. 11006. ENERGY SAVINGS PERFORMANCE CONTRACTS.**

2 (a) PERMANENT EXTENSION.—Section 801(c) of the
3 National Energy Conservation Policy Act (42 U.S.C.
4 8287(c)) is repealed.

5 (b) REPLACEMENT FACILITIES.—Section 801(a) of
6 the National Energy Conservation Policy Act (42 U.S.C.
7 8287(a)) is amended by adding at the end the following
8 new paragraph:

9 “(3)(A) In the case of an energy savings con-
10 tract or energy savings performance contract pro-
11 viding for energy savings through the construction
12 and operation of one or more buildings or facilities
13 to replace one or more existing buildings or facilities,
14 benefits ancillary to the purpose of such contract
15 under paragraph (1) may include savings resulting
16 from reduced costs of operation and maintenance at
17 such replacement buildings or facilities when com-
18 pared with costs of operation and maintenance at
19 the buildings or facilities being replaced, established
20 through a methodology set forth in the contract.

21 “(B) Notwithstanding paragraph (2)(B), aggre-
22 gate annual payments by an agency under an energy
23 savings contract or energy savings performance con-
24 tract referred to in subparagraph (A) may take into
25 account (through the procedures developed pursuant
26 to this section) savings resulting from reduced costs



1 of operation and maintenance as described in that
2 subparagraph.”.

3 (c) ENERGY SAVINGS.—Section 804(2) of the Na-
4 tional Energy Conservation Policy Act (42 U.S.C.
5 8287c(2)) is amended to read as follows:

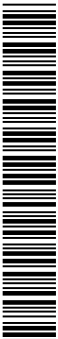
6 “(2) The term ‘energy savings’ means—

7 “(A) a reduction in the cost of energy or
8 water, from a base cost established through a
9 methodology set forth in the contract, used in
10 an existing federally owned building or build-
11 ings or other federally owned facilities as a re-
12 sult of—

13 “(i) the lease or purchase of operating
14 equipment, improvements, altered oper-
15 ation and maintenance, or technical serv-
16 ices;

17 “(ii) the increased efficient use of ex-
18 isting energy sources by cogeneration or
19 heat recovery, excluding any cogeneration
20 process for other than a federally owned
21 building or buildings or other federally
22 owned facilities; or

23 “(iii) the increased efficient use of ex-
24 isting water sources; or



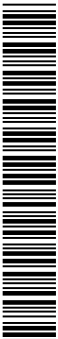
1 “(B) in the case of a replacement building
2 or facility described in section 801(a)(3), a re-
3 duction in the cost of energy, from a base cost
4 established through a methodology set forth in
5 the contract, that would otherwise be utilized in
6 one or more existing federally owned buildings
7 or other federally owned facilities by reason of
8 the construction and operation of the replace-
9 ment building or facility.”.

10 (d) ENERGY SAVINGS CONTRACT.—Section 804(3) of
11 the National Energy Conservation Policy Act (42 U.S.C.
12 8287c(3)) is amended to read as follows:

13 “(3) The terms ‘energy savings contract’ and
14 ‘energy savings performance contract’ mean a con-
15 tract which provides for—

16 “(A) the performance of services for the
17 design, acquisition, installation, testing, oper-
18 ation, and, where appropriate, maintenance and
19 repair, of an identified energy or water con-
20 servation measure or series of measures at one
21 or more locations; or

22 “(B) energy savings through the construc-
23 tion and operation of one or more buildings or
24 facilities to replace one or more existing build-
25 ings or facilities.



1 Such contracts shall, with respect to an agency facil-
2 ity that is a public building as such term is defined
3 in section 13(1) of the Public Buildings Act of 1959
4 (40 U.S.C. 3301), be in compliance with the pro-
5 spectus requirements and procedures of section 7 of
6 the Public Buildings Act of 1959 (40 U.S.C.
7 3307).”.

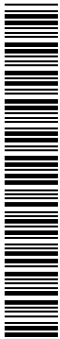
8 (e) ENERGY OR WATER CONSERVATION MEASURE.—
9 Section 804(4) of the National Energy Conservation Pol-
10 icy Act (42 U.S.C. 8287c(4)) is amended to read as fol-
11 lows:

12 “(4) The term ‘energy or water conservation
13 measure’ means—

14 “(A) an energy conservation measure, as
15 defined in section 551(4) (42 U.S.C. 8259(4));

16 or

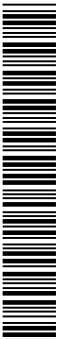
17 “(B) a water conservation measure that
18 improves water efficiency, is life cycle cost-effec-
19 tive, and involves water conservation, water re-
20 cycling or reuse, more efficient treatment of
21 wastewater or stormwater, improvements in op-
22 eration or maintenance efficiencies, retrofit ac-
23 tivities, or other related activities, not at a Fed-
24 eral hydroelectric facility.”.



1 (f) REVIEW.—Within 180 days after the date of the
2 enactment of this section, the Secretary of Energy shall
3 complete a review of the Energy Savings Performance
4 Contract program to identify statutory, regulatory, and
5 administrative obstacles that prevent Federal agencies
6 from fully utilizing the program. In addition, this review
7 shall identify all areas for increasing program flexibility
8 and effectiveness, including audit and measurement ver-
9 ification requirements, accounting for energy use in deter-
10 mining savings, contracting requirements, and energy effi-
11 ciency services covered. The Secretary shall report these
12 findings to the Committee on Energy and Commerce of
13 the House of Representatives and the Committee on En-
14 ergy and Natural Resources of the Senate, and shall im-
15 plement identified administrative and regulatory changes
16 to increase program flexibility and effectiveness to the ex-
17 tent that such changes are consistent with statutory au-
18 thority.

19 **SEC. 11007. VOLUNTARY COMMITMENTS TO REDUCE INDUS-**
20 **TRIAL ENERGY INTENSITY.**

21 (a) VOLUNTARY AGREEMENTS.—The Secretary of
22 Energy shall enter into voluntary agreements with one or
23 more persons in industrial sectors that consume signifi-
24 cant amounts of primary energy per unit of physical out-



1 put to reduce the energy intensity of their production ac-
2 tivities.

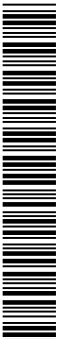
3 (b) GOAL.—Voluntary agreements under this section
4 shall have a goal of reducing energy intensity by not less
5 than 2.5 percent each year from 2004 through 2014.

6 (c) RECOGNITION.—The Secretary of Energy, in co-
7 operation with the Administrator of the Environmental
8 Protection Agency and other appropriate Federal agen-
9 cies, shall develop mechanisms to recognize and publicize
10 the achievements of participants in voluntary agreements
11 under this section.

12 (d) DEFINITION.—In this section, the term “energy
13 intensity” means the primary energy consumed per unit
14 of physical output in an industrial process.

15 (e) TECHNICAL ASSISTANCE.—An entity that enters
16 into an agreement under this section and continues to
17 make a good faith effort to achieve the energy efficiency
18 goals specified in the agreement shall be eligible to receive
19 from the Secretary a grant or technical assistance as ap-
20 propriate to assist in the achievement of those goals.

21 (f) REPORT.—Not later than June 30, 2010 and
22 June 30, 2014, the Secretary shall submit to Congress a
23 report that evaluates the success of the voluntary agree-
24 ments, with independent verification of a sample of the
25 energy savings estimates provided by participating firms.



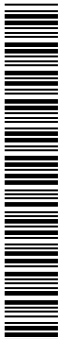
1 **SEC. 11008. FEDERAL AGENCY PARTICIPATION IN DEMAND**
2 **REDUCTION PROGRAMS.**

3 Section 546(c) of the National Energy Conservation
4 Policy Act (42 U.S.C. 8256(c)) is amended by adding at
5 the end of the following new paragraph:

6 “(6) Federal agencies are encouraged to participate
7 in State or regional demand side reduction programs. The
8 availability of such programs, including measures employ-
9 ing onsite generation, and the savings resulting from such
10 participation, should be included in the evaluation of en-
11 ergy options for Federal facilities.”.

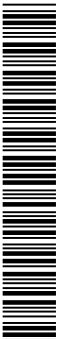
12 **SEC. 11009. ADVANCED BUILDING EFFICIENCY TESTBED.**

13 (a) ESTABLISHMENT.—The Secretary of Energy, in
14 consultation with the Administrator of the General Serv-
15 ices Administration, shall establish an Advanced Building
16 Efficiency Testbed program for the development, testing,
17 and demonstration of advanced engineering systems, com-
18 ponents, and materials to enable innovations in building
19 technologies. The program shall evaluate efficiency con-
20 cepts for government and industry buildings, and dem-
21 onstrate the ability of next generation buildings to support
22 individual and organizational productivity and health as
23 well as flexibility and technological change to improve en-
24 vironmental sustainability. Such program shall com-
25 plement and not duplicate existing national programs.



1 (b) PARTICIPANTS.—The program established under
2 subsection (a) shall be led by a university with the ability
3 to combine the expertise from numerous academic fields
4 including, at a minimum, intelligent workplaces and ad-
5 vanced building systems and engineering, electrical and
6 computer engineering, computer science, architecture,
7 urban design, and environmental and mechanical engi-
8 neering. Such university shall partner with other univer-
9 sities and entities who have established programs and the
10 capability of advancing innovative building efficiency tech-
11 nologies.

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary of En-
14 ergy to carry out this section \$6,000,000 for each of the
15 fiscal years 2004 through 2006, to remain available until
16 expended. For any fiscal year in which funds are expended
17 under this section, the Secretary shall provide one-third
18 of the total amount to the lead university described in sub-
19 section (b), and provide the remaining two-thirds to the
20 other participants referred to in subsection (b) on an equal
21 basis.



1 **SEC. 11010. INCREASED USE OF RECOVERED MINERAL**
2 **COMPONENT IN FEDERALLY FUNDED**
3 **PROJECTS INVOLVING PROCUREMENT OF**
4 **CEMENT OR CONCRETE.**

5 (a) AMENDMENT.—Subtitle F of the Solid Waste
6 Disposal Act (42 U.S.C. 6961 et seq.) is amended by add-
7 ing at the end the following new section:

8 “INCREASED USE OF RECOVERED MINERAL COMPONENT
9 IN FEDERALLY FUNDED PROJECTS INVOLVING PRO-
10 CUREMENT OF CEMENT OR CONCRETE

11 “SEC. 6005. (a) DEFINITIONS.—In this section:

12 “(1) AGENCY HEAD.—The term ‘agency head’
13 means—

14 “(A) the Secretary of Transportation; and

15 “(B) the head of each other Federal agen-
16 cy that on a regular basis procures, or provides
17 Federal funds to pay or assist in paying the
18 cost of procuring, material for cement or con-
19 crete projects.

20 “(2) CEMENT OR CONCRETE PROJECT.—The
21 term ‘cement or concrete project’ means a project
22 for the construction or maintenance of a highway or
23 other transportation facility or a Federal, State, or
24 local government building or other public facility
25 that—



1 “(A) involves the procurement of cement
2 or concrete; and

3 “(B) is carried out in whole or in part
4 using Federal funds.

5 “(3) RECOVERED MINERAL COMPONENT.—The
6 term ‘recovered mineral component’ means—

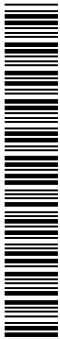
7 “(A) ground granulated blast furnace slag;

8 “(B) coal combustion fly ash; and

9 “(C) any other waste material or byprod-
10 uct recovered or diverted from solid waste that
11 the Administrator, in consultation with an
12 agency head, determines should be treated as
13 recovered mineral component under this section
14 for use in cement or concrete projects paid for,
15 in whole or in part, by the agency head.

16 “(b) IMPLEMENTATION OF REQUIREMENTS.—

17 “(1) IN GENERAL.—Not later than 1 year after
18 the date of enactment of this section, the Adminis-
19 trator and each agency head shall take such actions
20 as are necessary to implement fully all procurement
21 requirements and incentives in effect as of the date
22 of enactment of this section (including guidelines
23 under section 6002) that provide for the use of ce-
24 ment and concrete incorporating recovered mineral
25 component in cement or concrete projects.



1 “(2) PRIORITY.—In carrying out paragraph (1)
2 an agency head shall give priority to achieving great-
3 er use of recovered mineral component in cement or
4 concrete projects for which recovered mineral compo-
5 nents historically have not been used or have been
6 used only minimally.

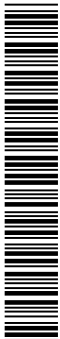
7 “(3) CONFORMANCE.—The Administrator and
8 each agency head shall carry out this subsection in
9 accordance with section 6002.

10 “(c) FULL IMPLEMENTATION STUDY.—

11 “(1) IN GENERAL.—The Administrator, in co-
12 operation with the Secretary of Transportation and
13 the Secretary of Energy, shall conduct a study to de-
14 termine the extent to which current procurement re-
15 quirements, when fully implemented in accordance
16 with subsection (b), may realize energy savings and
17 environmental benefits attainable with substitution
18 of recovered mineral component in cement used in
19 cement or concrete projects.

20 “(2) MATTERS TO BE ADDRESSED.—The study
21 shall—

22 “(A) quantify the extent to which recov-
23 ered mineral components are being substituted
24 for Portland cement, particularly as a result of
25 current procurement requirements, and the en-



1 ergy savings and environmental benefits associ-
2 ated with that substitution;

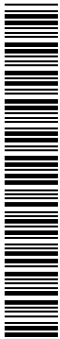
3 “(B) identify all barriers in procurement
4 requirements to fuller realization of energy sav-
5 ings and environmental benefits, including bar-
6 riers resulting from exceptions from current
7 law; and

8 “(C)(i) identify potential mechanisms to
9 achieve greater substitution of recovered min-
10 eral component in types of cement or concrete
11 projects for which recovered mineral compo-
12 nents historically have not been used or have
13 been used only minimally;

14 “(ii) evaluate the feasibility of establishing
15 guidelines or standards for optimized substi-
16 tution rates of recovered mineral component in
17 those cement or concrete projects; and

18 “(iii) identify any potential environmental
19 or economic effects that may result from great-
20 er substitution of recovered mineral component
21 in those cement or concrete projects.

22 “(3) REPORT.—Not later than 30 months after
23 the date of enactment of this section, the Adminis-
24 trator shall submit to the Committee on Appropria-
25 tions and Committee on Environment and Public



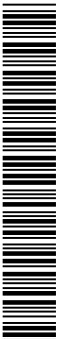
1 Works of the Senate and the Committee on Appro-
2 priations, Committee on Energy and Commerce, and
3 Committee on Transportation and Infrastructure of
4 the House of Representatives a report on the study.

5 “(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—
6 Unless the study conducted under subsection (c) identifies
7 any effects or other problems described in subsection
8 (c)(2)(C)(iii) that warrant further review or delay, the Ad-
9 ministrator and each agency head shall, within 1 year of
10 the release of the report in accordance with subsection
11 (c)(3), take additional actions authorized under this Act
12 to establish procurement requirements and incentives that
13 provide for the use of cement and concrete with increased
14 substitution of recovered mineral component in the con-
15 struction and maintenance of cement or concrete projects,
16 so as to—

17 “(1) realize more fully the energy savings and
18 environmental benefits associated with increased
19 substitution; and

20 “(2) eliminate barriers identified under sub-
21 section (c).

22 “(e) EFFECT OF SECTION.—Nothing in this section
23 affects the requirements of section 6002 (including the
24 guidelines and specifications for implementing those re-
25 quirements).”.



1 (b) TABLE OF CONTENTS AMENDMENT.—The table
2 of contents of the Solid Waste Disposal Act is amended
3 by adding after the item relating to section 6004 the fol-
4 lowing new item:

“Sec. 6005. Increased use of recovered mineral component in federally funded
projects involving procurement of cement or concrete.”.

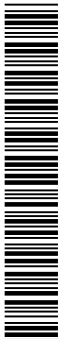
5 **Subtitle B—Energy Assistance and** 6 **State Programs**

7 **SEC. 11021. LIHEAP AND WEATHERIZATION ASSISTANCE.**

8 (a) LOW-INCOME HOME ENERGY ASSISTANCE PRO-
9 GRAM.—Section 2602(b) of the Low-Income Home Energy
10 Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended
11 by striking “each of fiscal years 2002 through 2004” and
12 inserting “each of fiscal years 2002 and 2003, and
13 \$3,400,000,000 for each of fiscal years 2004 through
14 2006”.

15 (b) WEATHERIZATION.—Section 422 of the Energy
16 Conservation and Production Act (42 U.S.C. 6872) is
17 amended by striking “for fiscal years 1999 through 2003
18 such sums as may be necessary” and inserting
19 “\$325,000,000 for fiscal year 2004, \$400,000,000 for fis-
20 cal year 2005, and \$500,000,000 for fiscal year 2006”.

21 (c) REPORT TO CONGRESS.—Not later than 1 year
22 after the date of enactment of this Act, the Secretary of
23 Health and Human Services shall transmit to the Con-
24 gress a report on how the Low-Income Home Energy As-



1 sistance Program could be used more effectively to prevent
2 loss of life from extreme temperatures. In preparing such
3 report, the Secretary shall consult with appropriate offi-
4 cials in all 50 States and the District of Columbia.

5 **SEC. 11022. STATE ENERGY PROGRAMS.**

6 (a) STATE ENERGY CONSERVATION PLANS.—Section
7 362 of the Energy Policy and Conservation Act (42 U.S.C.
8 6322) is amended by inserting at the end the following
9 new subsection:

10 “(g) The Secretary shall, at least once every 3 years,
11 invite the Governor of each State to review and, if nec-
12 essary, revise the energy conservation plan of such State
13 submitted under subsection (b) or (e). Such reviews should
14 consider the energy conservation plans of other States
15 within the region, and identify opportunities and actions
16 carried out in pursuit of common energy conservation
17 goals.”.

18 (b) STATE ENERGY EFFICIENCY GOALS.—Section
19 364 of the Energy Policy and Conservation Act (42 U.S.C.
20 6324) is amended to read as follows:

21 “STATE ENERGY EFFICIENCY GOALS

22 “SEC. 364. Each State energy conservation plan with
23 respect to which assistance is made available under this
24 part on or after the date of enactment of the Energy Pol-
25 icy Act of 2003 shall contain a goal, consisting of an im-
26 provement of 25 percent or more in the efficiency of use



1 of energy in the State concerned in calendar year 2010
2 as compared to calendar year 1990, and may contain in-
3 terim goals.”.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—Section
5 365(f) of the Energy Policy and Conservation Act (42
6 U.S.C. 6325(f)) is amended by striking “for fiscal years
7 1999 through 2003 such sums as may be necessary” and
8 inserting “\$100,000,000 for each of the fiscal years 2004
9 and 2005 and \$125,000,000 for fiscal year 2006”.

10 **SEC. 11023. ENERGY EFFICIENT APPLIANCE REBATE PRO-**
11 **GRAMS.**

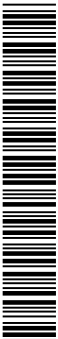
12 (a) DEFINITIONS.—In this section:

13 (1) ELIGIBLE STATE.—The term “eligible
14 State” means a State that meets the requirements
15 of subsection (b).

16 (2) ENERGY STAR PROGRAM.—The term “En-
17 ergy Star program” means the program established
18 by section 324A of the Energy Policy and Conserva-
19 tion Act.

20 (3) RESIDENTIAL ENERGY STAR PRODUCT.—
21 The term “residential Energy Star product” means
22 a product for a residence that is rated for energy ef-
23 ficiency under the Energy Star program.

24 (4) STATE ENERGY OFFICE.—The term “State
25 energy office” means the State agency responsible



1 for developing State energy conservation plans under
2 section 362 of the Energy Policy and Conservation
3 Act (42 U.S.C. 6322).

4 (5) STATE PROGRAM.—The term “State pro-
5 gram” means a State energy efficient appliance re-
6bate program described in subsection (b)(1).

7 (b) ELIGIBLE STATES.—A State shall be eligible to
8 receive an allocation under subsection (c) if the State—

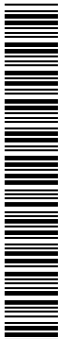
9 (1) establishes (or has established) a State en-
10ergy efficient appliance rebate program to provide
11rebates to residential consumers for the purchase of
12residential Energy Star products to replace used ap-
13pliances of the same type;

14 (2) submits an application for the allocation at
15such time, in such form, and containing such infor-
16mation as the Secretary may require; and

17 (3) provides assurances satisfactory to the Sec-
18retary that the State will use the allocation to sup-
19plement, but not supplant, funds made available to
20carry out the State program.

21 (c) AMOUNT OF ALLOCATIONS.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23for each fiscal year, the Secretary shall allocate to
24the State energy office of each eligible State to carry
25out subsection (d) an amount equal to the product



1 obtained by multiplying the amount made available
2 under subsection (f) for the fiscal year by the ratio
3 that the population of the State in the most recent
4 calendar year for which data are available bears to
5 the total population of all eligible States in that cal-
6 endar year.

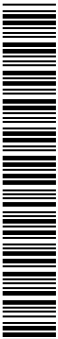
7 (2) MINIMUM ALLOCATIONS.—For each fiscal
8 year, the amounts allocated under this subsection
9 shall be adjusted proportionately so that no eligible
10 State is allocated a sum that is less than an amount
11 determined by the Secretary.

12 (d) USE OF ALLOCATED FUNDS.—The allocation to
13 a State energy office under subsection (c) may be used
14 to pay up to 50 percent of the cost of establishing and
15 carrying out a State program.

16 (e) ISSUANCE OF REBATES.—Rebates may be pro-
17 vided to residential consumers that meet the requirements
18 of the State program. The amount of a rebate shall be
19 determined by the State energy office, taking into
20 consideration—

21 (1) the amount of the allocation to the State
22 energy office under subsection (c);

23 (2) the amount of any Federal or State tax in-
24 centive available for the purchase of the residential
25 Energy Star product; and



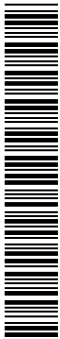
1 (3) the difference between the cost of the resi-
2 dential Energy Star product and the cost of an ap-
3 pliance that is not a residential Energy Star prod-
4 uct, but is of the same type as, and is the nearest
5 capacity, performance, and other relevant character-
6 istics (as determined by the State energy office) to
7 the residential Energy Star product.

8 (f) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated to carry out this section
10 \$50,000,000 for each of the fiscal years 2004 through
11 2008.

12 **SEC. 11024. ENERGY EFFICIENT PUBLIC BUILDINGS.**

13 (a) GRANTS.—The Secretary of Energy may make
14 grants to the State agency responsible for developing State
15 energy conservation plans under section 362 of the Energy
16 Policy and Conservation Act (42 U.S.C. 6322), or, if no
17 such agency exists, a State agency designated by the Gov-
18 ernor of the State, to assist units of local government in
19 the State in improving the energy efficiency of public
20 buildings and facilities—

21 (1) through construction of new energy efficient
22 public buildings that use at least 30 percent less en-
23 ergy than a comparable public building constructed
24 in compliance with standards prescribed in chapter
25 8 of the 2000 International Energy Conservation



1 Code, or a similar State code intended to achieve
2 substantially equivalent efficiency levels; or

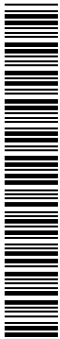
3 (2) through renovation of existing public build-
4 ings to achieve reductions in energy use of at least
5 30 percent as compared to the baseline energy use
6 in such buildings prior to renovation, assuming a 3-
7 year, weather-normalized average for calculating
8 such baseline.

9 (b) ADMINISTRATION.—State energy offices receiving
10 grants under this section shall—

11 (1) maintain such records and evidence of com-
12 pliance as the Secretary may require; and

13 (2) develop and distribute information and ma-
14 terials and conduct programs to provide technical
15 services and assistance to encourage planning, fi-
16 nancing, and design of energy efficient public build-
17 ings by units of local government.

18 (c) AUTHORIZATION OF APPROPRIATIONS.—For the
19 purposes of this section, there are authorized to be appro-
20 priated to the Secretary of Energy such sums as may be
21 necessary for each of fiscal years 2004 through 2013. Not
22 more than 30 percent of appropriated funds shall be used
23 for administration.



1 **SEC. 11025. LOW INCOME COMMUNITY ENERGY EFFICIENCY**
2 **PILOT PROGRAM.**

3 (a) GRANTS.—The Secretary of Energy is authorized
4 to make grants to units of local government, private, non-
5 profit community development organizations, and Indian
6 tribe economic development entities to improve energy effi-
7 ciency, identify and develop alternative renewable and dis-
8 tributed energy supplies, and increase energy conservation
9 in low income rural and urban communities.

10 (b) PURPOSE OF GRANTS.—The Secretary may make
11 grants on a competitive basis for—

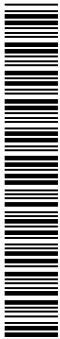
12 (1) investments that develop alternative renew-
13 able and distributed energy supplies;

14 (2) energy efficiency projects and energy con-
15 servation programs;

16 (3) studies and other activities that improve en-
17 ergy efficiency in low income rural and urban com-
18 munities;

19 (4) planning and development assistance for in-
20 creasing the energy efficiency of buildings and facili-
21 ties; and

22 (5) technical and financial assistance to local
23 government and private entities on developing new
24 renewable and distributed sources of power or com-
25 bined heat and power generation.



1 (c) DEFINITION.—For purposes of this section, the
2 term “Indian tribe” means any Indian tribe, band, nation,
3 or other organized group or community, including any
4 Alaskan Native village or regional or village corporation
5 as defined in or established pursuant to the Alaska Native
6 Claims Settlement Act (43 U.S.C. 1601 et seq.), which
7 is recognized as eligible for the special programs and serv-
8 ices provided by the United States to Indians because of
9 their status as Indians.

10 (d) AUTHORIZATION OF APPROPRIATIONS.—For the
11 purposes of this section there are authorized to be appro-
12 priated to the Secretary of Energy \$20,000,000 for fiscal
13 year 2004 and each fiscal year thereafter through fiscal
14 year 2006.

15 **Subtitle C—Energy Efficient** 16 **Products**

17 **SEC. 11041. ENERGY STAR PROGRAM.**

18 (a) AMENDMENT.—The Energy Policy and Conserva-
19 tion Act (42 U.S.C. 6201 and following) is amended by
20 inserting the following after section 324:

21 **“SEC. 324A. ENERGY STAR PROGRAM.**

22 “There is established at the Department of Energy
23 and the Environmental Protection Agency a program to
24 identify and promote energy-efficient products and build-
25 ings in order to reduce energy consumption, improve en-



1 ergy security, and reduce pollution through labeling of and
2 other forms of communication about products and build-
3 ings that meet the highest energy efficiency standards. Re-
4 sponsibilities under the program shall be divided between
5 the Department of Energy and the Environmental Protec-
6 tion Agency consistent with the terms of agreements be-
7 tween the two agencies. The Administrator and the Sec-
8 retary shall—

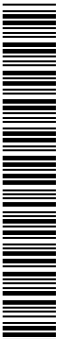
9 “(1) promote Energy Star compliant tech-
10 nologies as the preferred technologies in the market-
11 place for achieving energy efficiency and to reduce
12 pollution;

13 “(2) work to enhance public awareness of the
14 Energy Star label, including special outreach to
15 small businesses;

16 “(3) preserve the integrity of the Energy Star
17 label; and

18 “(4) solicit the comments of interested parties
19 in establishing a new Energy Star product category
20 or in revising a product category, and upon adoption
21 of a new or revised product category provide an ex-
22 planation of the decision that responds to significant
23 public comments.”.

24 (b) TABLE OF CONTENTS AMENDMENT.—The table
25 of contents of the Energy Policy and Conservation Act is



1 amended by inserting after the item relating to section
2 324 the following new item:

“Sec. 324A. Energy Star program.”.

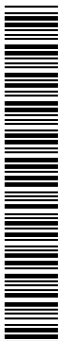
3 **SEC. 11042. CONSUMER EDUCATION ON ENERGY EFFI-**
4 **CIENCY BENEFITS OF AIR CONDITIONING,**
5 **HEATING, AND VENTILATION MAINTENANCE.**

6 Section 337 of the Energy Policy and Conservation
7 Act (42 U.S.C. 6307) is amended by adding at the end
8 the following:

9 “(c) HVAC MAINTENANCE.—(1) For the purpose of
10 ensuring that installed air conditioning and heating sys-
11 tems operate at their maximum rated efficiency levels, the
12 Secretary shall, within 180 days of the date of enactment
13 of this subsection, carry out a program to educate home-
14 owners and small business owners concerning the energy
15 savings resulting from properly conducted maintenance of
16 air conditioning, heating, and ventilating systems.

17 “(2) The Secretary shall carry out the program in
18 cooperation with the Administrator of the Environmental
19 Protection Agency and such other entities as the Secretary
20 considers appropriate, including industry trade associa-
21 tions, industry members, and energy efficiency organiza-
22 tions.

23 “(d) SMALL BUSINESS EDUCATION AND ASSIST-
24 ANCE.—The Administrator of the Small Business Admin-



1 istration, in consultation with the Secretary of Energy and
2 the Administrator of the Environmental Protection Agen-
3 cy, shall develop and coordinate a Government-wide pro-
4 gram, building on the existing Energy Star for Small
5 Business Program, to assist small business to become
6 more energy efficient, understand the cost savings obtain-
7 able through efficiencies, and identify financing options
8 for energy efficiency upgrades. The Secretary and the Ad-
9 ministrator shall make the program information available
10 directly to small businesses and through other Federal
11 agencies, including the Federal Emergency Management
12 Agency, and the Department of Agriculture.”.

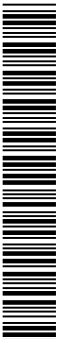
13 **SEC. 11043. ADDITIONAL DEFINITIONS.**

14 Section 321 of the Energy Policy and Conservation
15 Act (42 U.S.C. 6291) is amended by adding at the end
16 the following:

17 “(32) The term ‘battery charger’ means a de-
18 vice that charges batteries for consumer products.

19 “(33) The term ‘commercial refrigerator, freez-
20 er and refrigerator-freezer’ means a refrigerator,
21 freezer or refrigerator-freezer that—

22 “(A) is not a consumer product regulated
23 under this Act; and



1 “(B) incorporates most components in-
2 volved in the vapor-compression cycle and the
3 refrigerated compartment in a single package.

4 “(34) The term ‘external power supply’ means
5 an external power supply circuit that is used to con-
6 vert household electric current into either DC cur-
7 rent or lower-voltage AC current to operate a con-
8 sumer product.

9 “(35) The term ‘illuminated exit sign’ means a
10 sign that—

11 “(A) is designed to be permanently fixed in
12 place to identify an exit; and

13 “(B) consists of—

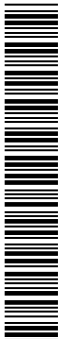
14 “(i) an electrically powered integral
15 light source that illuminates the legend
16 ‘EXIT’ and any directional indicators; and

17 “(ii) provides contrast between the
18 legend, any directional indicators, and the
19 background.

20 “(36)(A) Except as provided in subparagraph
21 (B), the term ‘low-voltage dry-type transformer’
22 means a transformer that—

23 “(i) has an input voltage of 600 volts or
24 less;

25 “(ii) is air-cooled;



1 “(iii) does not use oil as a coolant; and

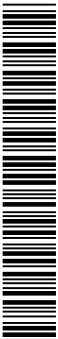
2 “(iv) is rated for operation at a frequency
3 of 60 Hertz.

4 “(B) The term ‘low-voltage dry-type trans-
5 former’ does not include—

6 “(i) transformers with multiple voltage
7 taps, with the highest voltage tap equaling at
8 least 20 percent more than the lowest voltage
9 tap;

10 “(ii) transformers that are designed to be
11 used in a special purpose application, such as
12 transformers commonly known as drive trans-
13 formers, rectifier transformers,
14 autotransformers, Uninterruptible Power Sys-
15 tem transformers, impedance transformers, har-
16 monic transformers, regulating transformers,
17 sealed and nonventilating transformers, ma-
18 chine tool transformers, welding transformers,
19 grounding transformers, or testing trans-
20 formers; or

21 “(iii) any transformer not listed in clause
22 (ii) that is excluded by the Secretary by rule be-
23 cause the transformer is designed for a special
24 application and the application of standards to



1 the transformer would not result in significant
2 energy savings.

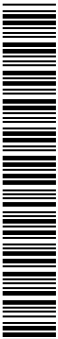
3 “(37) The term ‘standby mode’ means the low-
4 est amount of electric power used by a household ap-
5 pliance when not performing its active functions, as
6 defined on an individual product basis by the Sec-
7 retary.

8 “(38) The term ‘torchiera’ means a portable
9 electric lamp with a reflector bowl that directs light
10 upward so as to give indirect illumination.

11 “(39) The term ‘transformer’ means a device
12 consisting of two or more coils of insulated wire that
13 transfers alternating current by electromagnetic in-
14 duction from one coil to another to change the origi-
15 nal voltage or current value.

16 “(40) The term ‘unit heater’ means a self-con-
17 tained fan-type heater designed to be installed with-
18 in the heated space, except that such term does not
19 include a warm air furnace.

20 “(41) The term ‘traffic signal module’ means a
21 standard 8-inch (200mm) or 12-inch (300mm) traf-
22 fic signal indication, consisting of a light source, a
23 lens, and all other parts necessary for operation,
24 that communicates movement messages to drivers
25 through red, amber, and green colors.”.



1 **SEC. 11044. ADDITIONAL TEST PROCEDURES.**

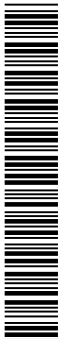
2 (a) EXIT SIGNS.—Section 323(b) of the Energy Pol-
3 icy and Conservation Act (42 U.S.C. 6293) is amended
4 by adding at the end the following:

5 “(9) Test procedures for illuminated exit signs
6 shall be based on the test method used under Ver-
7 sion 2.0 of the Energy Star program of the Environ-
8 mental Protection Agency for illuminated exit signs.

9 “(10) Test procedures for low voltage dry-type
10 distribution transformers shall be based on the
11 ‘Standard Test Method for Measuring the Energy
12 Consumption of Distribution Transformers’ pre-
13 scribed by the National Electrical Manufacturers As-
14 sociation (NEMA TP 2–1998). The Secretary may
15 review and revise this test procedure based on future
16 revisions to such standard test method.

17 “(11) Test procedures for traffic signal modules
18 shall be based on the test method used under the
19 Energy Star program of the Environmental Protec-
20 tion Agency for traffic signal modules, as in effect
21 on the date of enactment of this paragraph.”.

22 (b) ADDITIONAL CONSUMER AND COMMERCIAL
23 PRODUCTS.—Section 323 of the Energy Policy and Con-
24 servation Act (42 U.S.C. 6293) is further amended by
25 adding at the end the following:



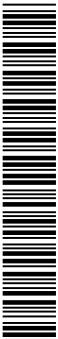
1 “(f) ADDITIONAL CONSUMER AND COMMERCIAL
2 PRODUCTS.—The Secretary shall within 24 months after
3 the date of enactment of this subsection prescribe testing
4 requirements for suspended ceiling fans, refrigerated bot-
5 tled or canned beverage vending machines, commercial
6 unit heaters, and commercial refrigerators, freezers and
7 refrigerator-freezers. Such testing requirements shall be
8 based on existing test procedures used in industry to the
9 extent practical and reasonable. In the case of suspended
10 ceiling fans, such test procedures shall include efficiency
11 at both maximum output and at an output no more than
12 50 percent of the maximum output.”.

13 **SEC. 11045. ENERGY CONSERVATION STANDARDS FOR AD-**
14 **DITIONAL CONSUMER AND COMMERCIAL**
15 **PRODUCTS.**

16 Section 325 of the Energy Policy and Conservation
17 Act (42 U.S.C. 6295) is amended by adding at the end
18 the following:

19 “(u) STANDBY MODE ELECTRIC ENERGY CONSUMP-
20 TION.—

21 “(1) INITIAL RULEMAKING.—(A) The Secretary
22 shall, within 18 months after the date of enactment
23 of this subsection, prescribe by notice and comment,
24 definitions of standby mode and test procedures for
25 the standby mode power use of battery chargers and



1 external power supplies. In establishing these test
2 procedures, the Secretary shall consider, among
3 other factors, existing test procedures used for meas-
4 uring energy consumption in standby mode and as-
5 sess the current and projected future market for
6 battery chargers and external power supplies. This
7 assessment shall include estimates of the significance
8 of potential energy savings from technical improve-
9 ments to these products and suggested product
10 classes for standards. Prior to the end of this time
11 period, the Secretary shall hold a scoping workshop
12 to discuss and receive comments on plans for devel-
13 oping energy conservation standards for standby
14 mode energy use for these products.

15 “(B) The Secretary shall, within 3 years after
16 the date of enactment of this subsection, issue a
17 final rule that determines whether energy conserva-
18 tion standards shall be promulgated for battery
19 chargers and external power supplies or classes
20 thereof. For each product class, any such standards
21 shall be set at the lowest level of standby energy use
22 that—

23 “(i) meets the criteria of subsections (o),
24 (p), (q), (r), (s) and (t); and



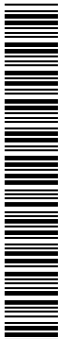
1 “(ii) will result in significant overall an-
2 nual energy savings, considering both standby
3 mode and other operating modes.

4 “(2) DESIGNATION OF ADDITIONAL COVERED
5 PRODUCTS.—(A) Not later than 180 days after the
6 date of enactment of this subsection, the Secretary
7 shall publish for public comment and public hearing
8 a notice to determine whether any noncovered prod-
9 ucts should be designated as covered products for
10 the purpose of instituting a rulemaking under this
11 section to determine whether an energy conservation
12 standard restricting standby mode energy consump-
13 tion, should be promulgated; except that any restric-
14 tion on standby mode energy consumption shall be
15 limited to major sources of such consumption.

16 “(B) In making the determinations pursuant to
17 subparagraph (A) of whether to designate new cov-
18 ered products and institute rulemakings, the Sec-
19 retary shall, among other relevant factors and in ad-
20 dition to the criteria in section 322(b), consider—

21 “(i) standby mode power consumption
22 compared to overall product energy consump-
23 tion; and

24 “(ii) the priority and energy savings poten-
25 tial of standards which may be promulgated



1 under this subsection compared to other re-
2 quired rulemakings under this section and the
3 available resources of the Department to con-
4 duct such rulemakings.

5 “(C) Not later than 1 year after the date of en-
6 actment of this subsection, the Secretary shall issue
7 a determination of any new covered products for
8 which he intends to institute rulemakings on standby
9 mode pursuant to this section and he shall state the
10 dates by which he intends to initiate those
11 rulemakings.

12 “(3) REVIEW OF STANDBY ENERGY USE IN
13 COVERED PRODUCTS.—In determining pursuant to
14 section 323 whether test procedures and energy con-
15 servation standards pursuant to this section should
16 be revised, the Secretary shall consider for covered
17 products which are major sources of standby mode
18 energy consumption whether to incorporate standby
19 mode into such test procedures and energy conserva-
20 tion standards, taking into account, among other
21 relevant factors, the criteria for non-covered prod-
22 ucts in subparagraph (B) of paragraph (2) of this
23 subsection.

24 “(4) RULEMAKING FOR STANDBY MODE.—(A)
25 Any rulemaking instituted under this subsection or



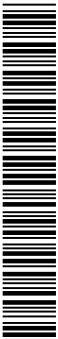
1 for covered products under this section which re-
2 stricts standby mode power consumption shall be
3 subject to the criteria and procedures for issuing en-
4 ergy conservation standards set forth in this section
5 and the criteria set forth in subparagraph (B) of
6 paragraph (2) of this subsection.

7 “(B) No standard can be proposed for new cov-
8 ered products or covered products in a standby mode
9 unless the Secretary has promulgated applicable test
10 procedures for each product pursuant to section 323.

11 “(C) The provisions of section 327 shall apply
12 to new covered products which are subject to the
13 rulemakings for standby mode after a final rule has
14 been issued.

15 “(5) EFFECTIVE DATE.—Any standard promul-
16 gated under this subsection shall be applicable to
17 products manufactured or imported 3 years after the
18 date of promulgation.

19 “(6) VOLUNTARY PROGRAMS TO REDUCE
20 STANDBY MODE ENERGY USE.—The Secretary and
21 the Administrator shall collaborate and develop pro-
22 grams, including programs pursuant to section 324A
23 (relating to Energy Star Programs) and other vol-
24 untary industry agreements or codes of conduct,

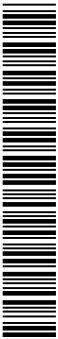


1 which are designed to reduce standby mode energy
2 use.

3 “(v) SUSPENDED CEILING FANS, VENDING MA-
4 CHINES, UNIT HEATERS, AND COMMERCIAL REFRIG-
5 ERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—
6 The Secretary shall within 24 months after the date on
7 which testing requirements are prescribed by the Sec-
8 retary pursuant to section 323(f), prescribe, by rule, en-
9 ergy conservation standards for suspended ceiling fans, re-
10 frigerated bottled or canned beverage vending machines,
11 unit heaters, and commercial refrigerators, freezers and
12 refrigerator-freezers. In establishing standards under this
13 subsection, the Secretary shall use the criteria and proce-
14 dures contained in subsections (l) and (m). Any standard
15 prescribed under this subsection shall apply to products
16 manufactured 3 years after the date of publication of a
17 final rule establishing such standard.

18 “(w) ILLUMINATED EXIT SIGNS.—Illuminated exit
19 signs manufactured on or after January 1, 2005 shall
20 meet the Version 2.0 Energy Star Program performance
21 requirements for illuminated exit signs prescribed by the
22 Environmental Protection Agency

23 “(x) TORCHIERES.—Torchieres manufactured on or
24 after January 1, 2005—



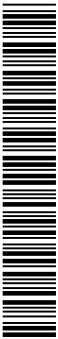
1 “(1) shall consume not more than 190 watts of
2 power; and

3 “(2) shall not be capable of operating with
4 lamps that total more than 190 watts.

5 “(y) LOW VOLTAGE DRY-TYPE TRANSFORMERS.—
6 The efficiency of low voltage dry-type transformers manu-
7 factured on or after January 1, 2005 shall be the Class
8 I Efficiency Levels for low voltage dry-type transformers
9 specified in Table 4–2 of the ‘Guide for Determining En-
10 ergy Efficiency for Distribution Transformers’ published
11 by the National Electrical Manufacturers Association
12 (NEMA TP–1–1996).

13 “(z) TRAFFIC SIGNAL MODULES.—Traffic signal
14 modules manufactured on or after January 1, 2006 shall
15 meet the performance requirements used under the En-
16 ergy Star program of the Environmental Protection Agen-
17 cy for traffic signals, as in effect on the date of enactment
18 of this paragraph, and shall be installed with compatible,
19 electrically-connected signal control interface devices and
20 conflict monitoring systems.

21 “(aa) EFFECTIVE DATE OF SECTION 327.—The pro-
22 visions of section 327 shall apply to products for which
23 standards are set in subsections (v) through (z) of this
24 section after the effective date for such standards.”.



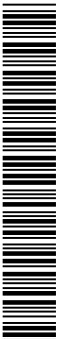
1 **SEC. 11046. ENERGY LABELING.**

2 (a) RULEMAKING ON EFFECTIVENESS OF CONSUMER
3 PRODUCT LABELING.—Paragraph (2) of section 324(a) of
4 the Energy Policy and Conservation Act (42 U.S.C.
5 6294(a)(2)) is amended by adding at the end the fol-
6 lowing:

7 “(F) Not later than 3 months after the date of enact-
8 ment of this subparagraph, the Commission shall initiate
9 a rulemaking to consider the effectiveness of the current
10 consumer products labeling program in assisting con-
11 sumers in making purchasing decisions and improving en-
12 ergy efficiency and to consider changes to the labeling
13 rules that would improve the effectiveness of consumer
14 product labels. Such rulemaking shall be completed within
15 2 years after the date of enactment of this subpara-
16 graph.”.

17 (b) RULEMAKING ON LABELING FOR ADDITIONAL
18 PRODUCTS.—Section 324(a) of the Energy Policy and
19 Conservation Act (42 U.S.C. 6294(a)) is further amended
20 by adding at the end the following:

21 “(5) The Secretary or the Commission, as appro-
22 priate, may for covered products referred to in subsections
23 (u) through (z) of section 325, prescribe, by rule, pursuant
24 to this section, labeling requirements for such products
25 after a test procedure has been set pursuant to section
26 323.”.



1 **SEC. 11047. STUDY OF ENERGY EFFICIENCY STANDARDS.**

2 The Secretary of Energy shall contract with the Na-
3 tional Academy of Sciences for a study, to be completed
4 within 1 year of enactment of this Act, to examine whether
5 the goals of energy efficiency standards are best served
6 by measurement of energy consumed, and efficiency im-
7 provements, at the actual site of energy consumption, or
8 through the full fuel cycle, beginning at the source of en-
9 ergy production. The Secretary shall submit the report to
10 the Congress.

11 **TITLE II—OIL AND GAS**
12 **Subtitle A—Alaska Natural Gas**
13 **Pipeline**

14 **SEC. 12001. SHORT TITLE.**

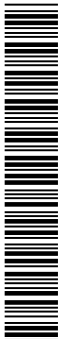
15 This subtitle may be cited as the “Alaska Natural
16 Gas Pipeline Act of 2003”.

17 **SEC. 12002. FINDINGS AND PURPOSES.**

18 (a) FINDINGS.—Congress finds the following:

19 (1) Construction of a natural gas pipeline sys-
20 tem from the Alaskan North Slope to United States
21 markets is in the national interest and will enhance
22 national energy security by providing access to the
23 significant gas reserves in Alaska needed to meet the
24 anticipated demand for natural gas.

25 (2) The Commission issued a conditional certifi-
26 cate of public convenience and necessity for the



1 Alaska natural gas transportation system, which re-
2 mains in effect.

3 (b) PURPOSES.—The purposes of this subtitle are as
4 follows:

5 (1) To provide a statutory framework for the
6 expedited approval, construction, and initial oper-
7 ation of an Alaska natural gas transportation
8 project, as an alternative to the framework provided
9 in the Alaska Natural Gas Transportation Act of
10 1976 (15 U.S.C. 719 et seq.), which remains in ef-
11 fect.

12 (2) To establish a process for providing access
13 to such transportation project in order to promote
14 competition in the exploration, development, and
15 production of Alaska natural gas.

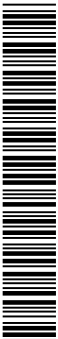
16 (3) To clarify Federal authorities under the
17 Alaska Natural Gas Transportation Act of 1976.

18 **SEC. 12003. DEFINITIONS.**

19 In this subtitle, the following definitions apply:

20 (1) ALASKA NATURAL GAS.—The term “Alaska
21 natural gas” means natural gas derived from the
22 area of the State of Alaska lying north of 64 degrees
23 North latitude.

24 (2) ALASKA NATURAL GAS TRANSPORTATION
25 PROJECT.—The term “Alaska natural gas transpor-



1 tation project” means any natural gas pipeline sys-
2 tem that carries Alaska natural gas to the border
3 between Alaska and Canada (including related facili-
4 ties subject to the jurisdiction of the Commission)
5 that is authorized under either—

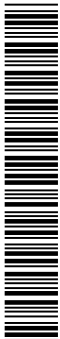
6 (A) the Alaska Natural Gas Transpor-
7 tation Act of 1976 (15 U.S.C. 719 et seq.); or

8 (B) section 12004.

9 (3) ALASKA NATURAL GAS TRANSPORTATION
10 SYSTEM.—The term “Alaska natural gas transpor-
11 tation system” means the Alaska natural gas trans-
12 portation project authorized under the Alaska Nat-
13 ural Gas Transportation Act of 1976 and designated
14 and described in section 2 of the President’s deci-
15 sion.

16 (4) COMMISSION.—The term “Commission”
17 means the Federal Energy Regulatory Commission.

18 (5) PRESIDENT’S DECISION.—The term “Presi-
19 dent’s decision” means the decision and report to
20 Congress on the Alaska natural gas transportation
21 system issued by the President on September 22,
22 1977, pursuant to section 7 of the Alaska Natural
23 Gas Transportation Act of 1976 (15 U.S.C. 719e)
24 and approved by Public Law 95–158 (91 Stat.
25 1268).



1 **SEC. 12004. ISSUANCE OF CERTIFICATE OF PUBLIC CON-**
2 **VENIENCE AND NECESSITY.**

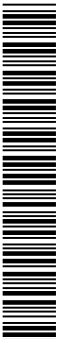
3 (a) AUTHORITY OF THE COMMISSION.—Notwith-
4 standing the provisions of the Alaska Natural Gas Trans-
5 portation Act of 1976 (15 U.S.C. 719 et seq.), the Com-
6 mission may, pursuant to section 7(c) of the Natural Gas
7 Act (15 U.S.C. 717f(c)), consider and act on an applica-
8 tion for the issuance of a certificate of public convenience
9 and necessity authorizing the construction and operation
10 of an Alaska natural gas transportation project other than
11 the Alaska natural gas transportation system.

12 (b) ISSUANCE OF CERTIFICATE.—

13 (1) IN GENERAL.—The Commission shall issue
14 a certificate of public convenience and necessity au-
15 thorizing the construction and operation of an Alas-
16 ka natural gas transportation project under this sec-
17 tion if the applicant has satisfied the requirements
18 of section 7(e) of the Natural Gas Act (15 U.S.C.
19 717f(e)).

20 (2) CONSIDERATIONS.—In considering an appli-
21 cation under this section, the Commission shall pre-
22 sume that—

23 (A) a public need exists to construct and
24 operate the proposed Alaska natural gas trans-
25 portation project; and



1 (B) sufficient downstream capacity will
2 exist to transport the Alaska natural gas mov-
3 ing through such project to markets in the con-
4 tiguous United States.

5 (c) EXPEDITED APPROVAL PROCESS.—The Commis-
6 sion shall issue a final order granting or denying any ap-
7 plication for a certificate of public convenience and neces-
8 sity under section 7(c) of the Natural Gas Act (15 U.S.C.
9 717f(c)) and this section not more than 60 days after the
10 issuance of the final environmental impact statement for
11 that project pursuant to section 12005.

12 (d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—
13 No license, permit, lease, right-of-way, authorization, or
14 other approval required under Federal law for the con-
15 struction of any pipeline to transport natural gas from
16 lands within the Prudhoe Bay oil and gas lease area may
17 be granted for any pipeline that follows a route that
18 traverses—

19 (1) the submerged lands (as defined by the
20 Submerged Lands Act) beneath, or the adjacent
21 shoreline of, the Beaufort Sea; and

22 (2) enters Canada at any point north of 68 de-
23 grees North latitude.

24 (e) OPEN SEASON.—Except where an expansion is
25 ordered pursuant to section 12006, initial or expansion ca-



1 capacity on any Alaska natural gas transportation project
2 shall be allocated in accordance with procedures to be es-
3 tablished by the Commission in regulations governing the
4 conduct of open seasons for such project. Such procedures
5 shall include the criteria for and timing of any open sea-
6 sons, be consistent with the purposes set forth in section
7 12002(b)(2), and, for any open season for capacity beyond
8 the initial capacity, provide the opportunity for the trans-
9 portation of natural gas other than from the Prudhoe Bay
10 and Point Thompson units. The Commission shall issue
11 such regulations not later than 120 days after the date
12 of enactment of this Act.

13 (f) PROJECTS IN THE CONTIGUOUS UNITED
14 STATES.—Applications for additional or expanded pipeline
15 facilities that may be required to transport Alaska natural
16 gas from Canada to markets in the contiguous United
17 States may be made pursuant to the Natural Gas Act.
18 To the extent such pipeline facilities include the expansion
19 of any facility constructed pursuant to the Alaska Natural
20 Gas Transportation Act of 1976, the provisions of that
21 Act shall continue to apply.

22 (g) STUDY OF IN-STATE NEEDS.—The holder of the
23 certificate of public convenience and necessity issued,
24 modified, or amended by the Commission for an Alaska
25 natural gas transportation project shall demonstrate that



1 it has conducted a study of Alaska in-State needs, includ-
2 ing tie-in points along the Alaska natural gas transpor-
3 tation project for in-State access.

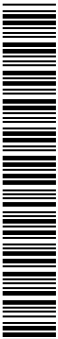
4 (h) ALASKA ROYALTY GAS.—The Commission, upon
5 the request of the State of Alaska and after a hearing,
6 may provide for reasonable access to the Alaska natural
7 gas transportation project for the State of Alaska or its
8 designee for the transportation of the State's royalty gas
9 for local consumption needs within the State; except that
10 the rates of existing shippers of subscribed capacity on
11 such project shall not be increased as a result of such ac-
12 cess.

13 (i) REGULATIONS.—The Commission may issue regu-
14 lations to carry out the provisions of this section.

15 **SEC. 12005. ENVIRONMENTAL REVIEWS.**

16 (a) COMPLIANCE WITH NEPA.—The issuance of a
17 certificate of public convenience and necessity authorizing
18 the construction and operation of any Alaska natural gas
19 transportation project under section 12004 shall be treat-
20 ed as a major Federal action significantly affecting the
21 quality of the human environment within the meaning of
22 section 102(2)(C) of the National Environmental Policy
23 Act of 1969 (42 U.S.C. 4332(2)(C)).

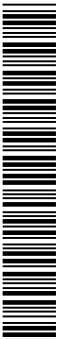
24 (b) DESIGNATION OF LEAD AGENCY.—The Commis-
25 sion shall be the lead agency for purposes of complying



1 with the National Environmental Policy Act of 1969, and
2 shall be responsible for preparing the statement required
3 by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c))
4 with respect to an Alaska natural gas transportation
5 project under section 12004. The Commission shall pre-
6 pare a single environmental statement under this section,
7 which shall consolidate the environmental reviews of all
8 Federal agencies considering any aspect of the project.

9 (c) OTHER AGENCIES.—All Federal agencies consid-
10 ering aspects of the construction and operation of an Alas-
11 ka natural gas transportation project under section 12004
12 shall cooperate with the Commission, and shall comply
13 with deadlines established by the Commission in the prep-
14 aration of the statement under this section. The statement
15 prepared under this section shall be used by all such agen-
16 cies to satisfy their responsibilities under section
17 102(2)(C) of the National Environmental Policy Act of
18 1969 (42 U.S.C. 4332(2)(C)) with respect to such project.

19 (d) EXPEDITED PROCESS.—The Commission shall
20 issue a draft statement under this section not later than
21 12 months after the Commission determines the applica-
22 tion to be complete and shall issue the final statement not
23 later than 6 months after the Commission issues the draft
24 statement, unless the Commission for good cause finds
25 that additional time is needed.



1 **SEC. 12006. PIPELINE EXPANSION.**

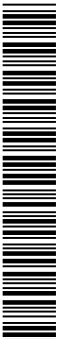
2 (a) **AUTHORITY.**—With respect to any Alaska natural
3 gas transportation project, upon the request of one or
4 more persons and after giving notice and an opportunity
5 for a hearing, the Commission may order the expansion
6 of such project if it determines that such expansion is re-
7 quired by the present and future public convenience and
8 necessity.

9 (b) **REQUIREMENTS.**—Before ordering an expansion,
10 the Commission shall—

11 (1) approve or establish rates for the expansion
12 service that are designed to ensure the recovery, on
13 an incremental or rolled-in basis, of the cost associ-
14 ated with the expansion (including a reasonable rate
15 of return on investment);

16 (2) ensure that the rates as established do not
17 require existing shippers on the Alaska natural gas
18 transportation project to subsidize expansion ship-
19 pers;

20 (3) find that the proposed shipper will comply
21 with, and the proposed expansion and the expansion
22 of service will be undertaken and implemented based
23 on, terms and conditions consistent with the then-ef-
24 fective tariff of the Alaska natural gas transpor-
25 tation project;



1 (4) find that the proposed facilities will not ad-
2 versely affect the financial or economic viability of
3 the Alaska natural gas transportation project;

4 (5) find that the proposed facilities will not ad-
5 versely affect the overall operations of the Alaska
6 natural gas transportation project;

7 (6) find that the proposed facilities will not di-
8 minish the contract rights of existing shippers to
9 previously subscribed certificated capacity;

10 (7) ensure that all necessary environmental re-
11 views have been completed; and

12 (8) find that adequate downstream facilities
13 exist or are expected to exist to deliver incremental
14 Alaska natural gas to market.

15 (c) REQUIREMENT FOR A FIRM TRANSPORTATION
16 AGREEMENT.—Any order of the Commission issued pur-
17 suant to this section shall be null and void unless the per-
18 son or persons requesting the order executes a firm trans-
19 portation agreement with the Alaska natural gas transpor-
20 tation project within a reasonable period of time as speci-
21 fied in such order.

22 (d) LIMITATION.—Nothing in this section shall be
23 construed to expand or otherwise affect any authorities of
24 the Commission with respect to any natural gas pipeline
25 located outside the State of Alaska.



1 (e) REGULATIONS.—The Commission may issue reg-
2 ulations to carry out the provisions of this section.

3 **SEC. 12007. FEDERAL COORDINATOR.**

4 (a) ESTABLISHMENT.—There is established, as an
5 independent office in the executive branch, the Office of
6 the Federal Coordinator for Alaska Natural Gas Trans-
7 portation Projects.

8 (b) FEDERAL COORDINATOR.—The Office shall be
9 headed by a Federal Coordinator for Alaska Natural Gas
10 Transportation Projects, who shall—

11 (1) be appointed by the President, by and with
12 the advice of the Senate;

13 (2) hold office at the pleasure of the President;
14 and

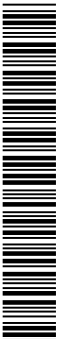
15 (3) be compensated at the rate prescribed for
16 level III of the Executive Schedule (5 U.S.C. 5314).

17 (c) DUTIES.—The Federal Coordinator shall be re-
18 sponsible for—

19 (1) coordinating the expeditious discharge of all
20 activities by Federal agencies with respect to an
21 Alaska natural gas transportation project; and

22 (2) ensuring the compliance of Federal agencies
23 with the provisions of this subtitle.

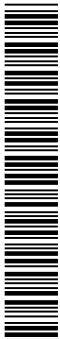
24 (d) REVIEWS AND ACTIONS OF OTHER FEDERAL
25 AGENCIES.—



1 (1) EXPEDITED REVIEWS AND ACTIONS.—All
2 reviews conducted and actions taken by any Federal
3 officer or agency relating to an Alaska natural gas
4 transportation project authorized under this section
5 shall be expedited, in a manner consistent with com-
6 pletion of the necessary reviews and approvals by the
7 deadlines set forth in this subtitle.

8 (2) PROHIBITION ON CERTAIN TERMS AND CON-
9 DITIONS.—Except with respect to Commission ac-
10 tions under sections 12004, 12005, and 12006, no
11 Federal officer or agency shall have the authority to
12 include terms and conditions that are permitted, but
13 not required, by law on any certificate, right-of-way,
14 permit, lease, or other authorization issued to an
15 Alaska natural gas transportation project if the Fed-
16 eral Coordinator determines that the terms and con-
17 ditions would prevent or impair in any significant re-
18 spect the expeditious construction and operation of
19 the project.

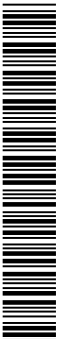
20 (3) PROHIBITION ON CERTAIN ACTIONS.—Ex-
21 cept with respect to Commission actions under sec-
22 tions 12004, 12005, and 12006, unless required by
23 law, no Federal officer or agency shall add to,
24 amend, or abrogate any certificate, right-of-way, per-
25 mit, lease, or other authorization issued to an Alas-



1 ka natural gas transportation project if the Federal
2 Coordinator determines that such action would pre-
3 vent or impair in any significant respect the expedi-
4 tious construction and operation of the project.

5 (e) STATE COORDINATION.—The Federal Coordi-
6 nator shall enter into a Joint Surveillance and Monitoring
7 Agreement, approved by the President and the Governor
8 of Alaska, with the State of Alaska similar to that in effect
9 during construction of the Trans-Alaska Oil Pipeline to
10 monitor the construction of the Alaska natural gas trans-
11 portation project. The Federal Government shall have pri-
12 mary surveillance and monitoring responsibility where the
13 Alaska natural gas transportation project crosses Federal
14 lands and private lands, and the State government shall
15 have primary surveillance and monitoring responsibility
16 where the Alaska natural gas transportation project
17 crosses State lands.

18 (f) TRANSFER OF FEDERAL INSPECTOR FUNCTIONS
19 AND AUTHORITY.—Upon appointment of the Federal Co-
20 ordinator by the President, all of the functions and au-
21 thority of the Office of Federal Inspector of Construction
22 for the Alaska Natural Gas Transportation System vested
23 in the Secretary of Energy pursuant to section 3012(b)
24 of Public Law 102–486 (15 U.S.C. 719e(b)), including all
25 functions and authority described and enumerated in the



1 Reorganization Plan No. 1 of 1979 (44 Fed. Reg. 33,663),
2 Executive Order No. 12142 of June 21, 1979 (44 Fed.
3 Reg. 36,927), and section 5 of the President's decision,
4 shall be transferred to the Federal Coordinator.

5 **SEC. 12008. JUDICIAL REVIEW.**

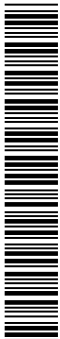
6 (a) **EXCLUSIVE JURISDICTION.**—Except for review by
7 the Supreme Court of the United States on writ of certio-
8 rari, the United States Court of Appeals for the District
9 of Columbia Circuit shall have original and exclusive juris-
10 diction to determine—

11 (1) the validity of any final order or action (in-
12 cluding a failure to act) of any Federal agency or of-
13 ficer under this subtitle;

14 (2) the constitutionality of any provision of this
15 subtitle, or any decision made or action taken under
16 this subtitle; or

17 (3) the adequacy of any environmental impact
18 statement prepared under the National Environ-
19 mental Policy Act of 1969 with respect to any action
20 under this subtitle.

21 (b) **DEADLINE FOR FILING CLAIM.**—Claims arising
22 under this subtitle may be brought not later than 60 days
23 after the date of the decision or action giving rise to the
24 claim.



1 (c) EXPEDITED CONSIDERATION.—The United
2 States Court of Appeals for the District of Columbia Cir-
3 cuit shall set any action brought under subsection (a) for
4 expedited consideration, taking into account the national
5 interest as described in section 12002(a).

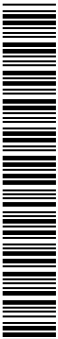
6 (d) AMENDMENT TO ANGTA.—Section 10(c) of the
7 Alaska Natural Gas Transportation Act of 1976 (15
8 U.S.C. 719h) is amended by inserting after paragraph (1)
9 the following:

10 “(2) The United States Court of Appeals for the Dis-
11 trict of Columbia Circuit shall set any action brought
12 under this section for expedited consideration, taking into
13 account the national interest described in section 2.”.

14 **SEC. 12009. STATE JURISDICTION OVER IN-STATE DELIV-**
15 **ERY OF NATURAL GAS.**

16 (a) LOCAL DISTRIBUTION.—Any facility receiving
17 natural gas from the Alaska natural gas transportation
18 project for delivery to consumers within the State of Alas-
19 ka shall be deemed to be a local distribution facility within
20 the meaning of section 1(b) of the Natural Gas Act (15
21 U.S.C. 717(b)), and therefore not subject to the jurisdic-
22 tion of the Commission.

23 (b) ADDITIONAL PIPELINES.—Nothing in this sub-
24 title, except as provided in section 12004(d), shall preclude
25 or affect a future gas pipeline that may be constructed

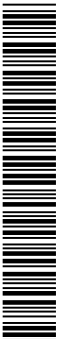


1 to deliver natural gas to Fairbanks, Anchorage,
2 Matanuska-Susitna Valley, or the Kenai peninsula or
3 Valdez or any other site in the State of Alaska for con-
4 sumption within or distribution outside the State of Alas-
5 ka.

6 (c) RATE COORDINATION.—Pursuant to the Natural
7 Gas Act, the Commission shall establish rates for the
8 transportation of natural gas on the Alaska natural gas
9 transportation project. In exercising such authority, the
10 Commission, pursuant to section 17(b) of the Natural Gas
11 Act (15 U.S.C. 717p(b)), shall confer with the State of
12 Alaska regarding rates (including rate settlements) appli-
13 cable to natural gas transported on and delivered from the
14 Alaska natural gas transportation project for use within
15 the State of Alaska.

16 **SEC. 12010. STUDY OF ALTERNATIVE MEANS OF CONSTRUC-**
17 **TION.**

18 (a) REQUIREMENT OF STUDY.—If no application for
19 the issuance of a certificate or amended certificate of pub-
20 lic convenience and necessity authorizing the construction
21 and operation of an Alaska natural gas transportation
22 project has been filed with the Commission not later than
23 18 months after the date of enactment of this Act, the
24 Secretary of Energy shall conduct a study of alternative



1 approaches to the construction and operation of the
2 project.

3 (b) SCOPE OF STUDY.—The study shall consider the
4 feasibility of establishing a Government corporation to
5 construct an Alaska natural gas transportation project,
6 and alternative means of providing Federal financing and
7 ownership (including alternative combinations of Govern-
8 ment and private corporate ownership) of the project.

9 (c) CONSULTATION.—In conducting the study, the
10 Secretary of Energy shall consult with the Secretary of
11 the Treasury and the Secretary of the Army (acting
12 through the Commanding General of the Corps of Engi-
13 neers).

14 (d) REPORT.—If the Secretary of Energy is required
15 to conduct a study under subsection (a), the Secretary
16 shall submit a report containing the results of the study,
17 the Secretary's recommendations, and any proposals for
18 legislation to implement the Secretary's recommendations
19 to Congress.

20 **SEC. 12011. CLARIFICATION OF ANGTA STATUS AND AU-**
21 **THORITIES.**

22 (a) SAVINGS CLAUSE.—Nothing in this subtitle af-
23 fects any decision, certificate, permit, right-of-way, lease,
24 or other authorization issued under section 9 of the Alaska
25 Natural Gas Transportation Act of 1976 (15 U.S.C.



1 719g) or any Presidential findings or waivers issued in
2 accordance with that Act.

3 (b) CLARIFICATION OF AUTHORITY TO AMEND
4 TERMS AND CONDITIONS TO MEET CURRENT PROJECT
5 REQUIREMENTS.—Any Federal officer or agency respon-
6 sible for granting or issuing any certificate, permit, right-
7 of-way, lease, or other authorization under section 9 of
8 the Alaska Natural Gas Transportation Act of 1976 (15
9 U.S.C. 719g) may add to, amend, or abrogate any term
10 or condition included in such certificate, permit, right-of-
11 way, lease, or other authorization to meet current project
12 requirements (including the physical design, facilities, and
13 tariff specifications), so long as such action does not com-
14 pel a change in the basic nature and general route of the
15 Alaska natural gas transportation system as designated
16 and described in section 2 of the President's decision, or
17 would otherwise prevent or impair in any significant re-
18 spect the expeditious construction and initial operation of
19 such transportation system.

20 (c) UPDATED ENVIRONMENTAL REVIEWS.—The Sec-
21 retary of Energy shall require the sponsor of the Alaska
22 natural gas transportation system to submit such updated
23 environmental data, reports, permits, and impact analyses
24 as the Secretary determines are necessary to develop de-



1 tailed terms, conditions, and compliance plans required by
2 section 5 of the President's decision.

3 **SEC. 12012. SENSE OF CONGRESS.**

4 It is the sense of Congress that an Alaska natural
5 gas transportation project will provide significant eco-
6 nomic benefits to the United States and Canada. In order
7 to maximize those benefits, Congress urges the sponsors
8 of the pipeline project to make every effort to use steel
9 that is manufactured or produced in North America and
10 to negotiate a project labor agreement to expedite con-
11 struction of the pipeline.

12 **SEC. 12013. PARTICIPATION OF SMALL BUSINESS CON-**
13 **CERNS.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that an Alaska natural gas transportation project
16 will provide significant economic benefits to the United
17 States and Canada. In order to maximize those benefits,
18 Congress urges the sponsors of the pipeline project to
19 maximize the participation of small business concerns in
20 contracts and subcontracts awarded in carrying out the
21 project.

22 (b) STUDY.—

23 (1) IN GENERAL.—The Comptroller General
24 shall conduct a study on the extent to which small



1 business concerns participate in the construction of
2 oil and gas pipelines in the United States.

3 (2) REPORT.—Not later than 1 year after the
4 date of enactment of this Act, the Comptroller Gen-
5 eral shall transmit to Congress a report containing
6 the results of the study.

7 (3) UPDATES.—The Comptroller General shall
8 update the study at least once every 5 years and
9 transmit to Congress a report containing the results
10 of the update.

11 (4) APPLICABILITY.—After the date of comple-
12 tion of the construction of an Alaska natural gas
13 transportation project, this subsection shall no
14 longer apply.

15 (c) SMALL BUSINESS CONCERN DEFINED.—In this
16 section, the term “small business concern” has the mean-
17 ing given such term in section 3(a) of the Small Business
18 Act (15 U.S.C. 632(a)).

19 **SEC. 12014. ALASKA PIPELINE CONSTRUCTION TRAINING**
20 **PROGRAM.**

21 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
22 of Labor (in this section referred to as the “Secretary”)
23 may make grants to the Alaska Department of Labor and
24 Workforce Development to—



1 (1) develop a plan to train, through the work-
2 force investment system established in the State of
3 Alaska under the Workforce Investment Act of 1998
4 (112 Stat. 936 et seq.), adult and dislocated work-
5 ers, including Alaska Natives, in urban and rural
6 Alaska in the skills required to construct and oper-
7 ate an Alaska gas pipeline system; and

8 (2) implement the plan developed pursuant to
9 paragraph (1).

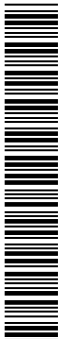
10 (b) REQUIREMENTS FOR PLANNING GRANTS.—The
11 Secretary may make a grant under subsection (a)(1) only
12 if—

13 (1) the Governor of Alaska certifies in writing
14 to the Secretary that there is a reasonable expecta-
15 tion that construction of an Alaska gas pipeline will
16 commence within 3 years after the date of such cer-
17 tification; and

18 (2) the Secretary of the Interior concurs in
19 writing to the Secretary with the certification made
20 under paragraph (1).

21 (c) REQUIREMENTS FOR IMPLEMENTATION
22 GRANTS.—The Secretary may make a grant under sub-
23 section (a)(2) only if—

24 (1) the Secretary has approved a plan developed
25 pursuant to subsection (a)(1);



1 (2) the Governor of Alaska requests the grant
2 funds and certifies in writing to the Secretary that
3 there is a reasonable expectation that the construc-
4 tion of an Alaska gas pipeline system will commence
5 within 2 years after the date of such certification;

6 (3) the Secretary of the Interior concurs in
7 writing to the Secretary with the certification made
8 under paragraph (2) after considering—

9 (A) the status of necessary State and Fed-
10 eral permits;

11 (B) the availability of financing for the
12 pipeline project; and

13 (C) other relevant factors and cir-
14 cumstances.

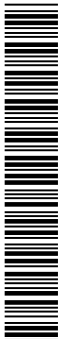
15 (d) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated to the Secretary of
17 Labor such sums as may be necessary, but not to exceed
18 \$20,000,000, to carry out this section.

19 **Subtitle B—Strategic Petroleum**
20 **Reserve**

21 **SEC. 12101. FULL CAPACITY OF STRATEGIC PETROLEUM**
22 **RESERVE.**

23 The President shall—

24 (1) fill the Strategic Petroleum Reserve estab-
25 lished pursuant to part B of title I of the Energy



1 Policy and Conservation Act (42 U.S.C. 6231 et
2 seq.) to full capacity as soon as practicable;

3 (2) acquire petroleum for the Strategic Petro-
4 leum Reserve by the most practicable and cost-effec-
5 tive means, with consideration being given to domes-
6 tically produced petroleum, including the acquisition
7 of crude oil the United States is entitled to receive
8 in kind as royalties from production on Federal
9 lands; and

10 (3) ensure that the fill rate minimizes impacts
11 on petroleum markets.

12 **SEC. 12102. STRATEGIC PETROLEUM RESERVE EXPANSION.**

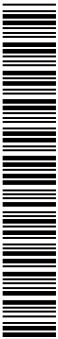
13 (a) PLAN.—Not later than 180 days after the date
14 of the enactment of this Act, the Secretary of Energy shall
15 transmit to the Congress a plan for the expansion of the
16 Strategic Petroleum Reserve to 1,000,000,000 barrels,
17 including—

18 (1) plans for the elimination of infrastructure
19 impediments to maximum drawdown capability;

20 (2) a schedule for the completion of all required
21 environmental reviews;

22 (3) provision for consultation with Federal and
23 State environmental agencies;

24 (4) a schedule and procedures for site selection;
25 and



1 (5) anticipated annual budget requests.

2 (b) CONSTRUCTION OF ADDITIONAL CAPACITY.—The
3 Secretary of Energy shall acquire property and complete
4 construction for the expansion of the Strategic Petroleum
5 Reserve in accordance with the plan transmitted under
6 subsection (a).

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Secretary of En-
9 ergy \$1,500,000,000 for carrying out this section, to re-
10 main available until expended.

11 **SEC. 12103. PERMANENT AUTHORITY TO OPERATE THE**
12 **STRATEGIC PETROLEUM RESERVE AND**
13 **OTHER ENERGY PROGRAMS.**

14 (a) AMENDMENT TO TITLE I OF THE ENERGY POL-
15 ICY AND CONSERVATION ACT.—Title I of the Energy Pol-
16 icy and Conservation Act (42 U.S.C. 6211 et seq.) is
17 amended—

18 (1) by striking section 166 (42 U.S.C. 6246)
19 and inserting—

20 “AUTHORIZATION OF APPROPRIATIONS

21 “SEC. 166. There are authorized to be appropriated
22 to the Secretary such sums as may be necessary to carry
23 out this part and part D, to remain available until ex-
24 pended.”;

25 (2) by striking section 186 (42 U.S.C. 6250e);
26 and



1 (3) by striking part E (42 U.S.C. 6251; relat-
2 ing to the expiration of title I of the Act).

3 (b) AMENDMENT TO TITLE II OF THE ENERGY POL-
4 ICY AND CONSERVATION ACT.—Title II of the Energy
5 Policy and Conservation Act (42 U.S.C. 6271 et seq.) is
6 amended—

7 (1) by inserting before section 273 (42 U.S.C.
8 6283) the following:

9 “PART C—SUMMER FILL AND FUEL BUDGETING
10 PROGRAMS”;

11 (2) by striking section 273(e) (42 U.S.C.
12 6283(e); relating to the expiration of summer fill
13 and fuel budgeting programs); and

14 (3) by striking part D (42 U.S.C. 6285; relat-
15 ing to the expiration of title II of the Act).

16 (c) TECHNICAL AMENDMENTS.—The table of con-
17 tents for the Energy Policy and Conservation Act is
18 amended—

19 (1) by inserting after the items relating to part
20 C of title I the following:

“PART D—NORTHEAST HOME HEATING OIL RESERVE

“Sec. 181. Establishment.

“Sec. 182. Authority.

“Sec. 183. Conditions for release; plan.

“Sec. 184. Northeast Home Heating Oil Reserve Account.

“Sec. 185. Exemptions.”;

21 (2) by amending the items relating to part C of
22 title II to read as follows:



“PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

“Sec. 273. Summer fill and fuel budgeting programs.”; and

1 (3) by striking the items relating to part D of
2 title II.

3 (d) AMENDMENT TO THE ENERGY POLICY AND CON-
4 SERVATION ACT.—Section 183(b)(1) of the Energy Policy
5 and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended
6 by inserting “(considered as a heating season average)”
7 after “mid-October through March”.

8 **Subtitle C—Hydraulic Fracturing**

9 **SEC. 12201. HYDRAULIC FRACTURING.**

10 Paragraph (1) of section 1421(d) of the Safe Drink-
11 ing Water Act (42 U.S.C. 300h(d)) is amended to read
12 as follows:

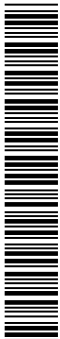
13 “(1) The term ‘underground injection’—

14 “(A) means the subsurface emplacement of
15 fluids by well injection; and

16 “(B) excludes—

17 “(i) the underground injection of nat-
18 ural gas for purposes of storage; and

19 “(ii) the underground injection of
20 fluids or propping agents pursuant to hy-
21 draulic fracturing operations related to oil
22 or gas production activities.”.



1 **Subtitle D—Unproven Oil and Nat-**
2 **ural Gas Reserves Recovery**
3 **Program**

4 **SEC. 12301. PROGRAM.**

5 The Secretary shall carry out a program to dem-
6 onstrate technologies for the recovery of oil and natural
7 gas reserves from reservoirs described in section 12302.

8 **SEC. 12302. ELIGIBLE RESERVOIRS.**

9 The program under this subtitle shall only address
10 oil and natural gas reservoirs with 1 or more of the fol-
11 lowing characteristics:

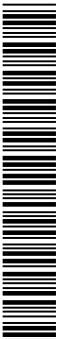
12 (1) Complex geology involving rapid changes in
13 the type and quality of the oil reservoir across the
14 reservoir.

15 (2) Low reservoir pressure.

16 (3) Unconventional natural gas reservoirs in
17 coalbeds, tight sands, or shales.

18 **SEC. 12303. FOCUS AREAS.**

19 The program under this subtitle may focus on areas
20 including coal-bed methane, deep drilling, natural gas pro-
21 duction from tight sands, natural gas production from gas
22 shales, innovative production techniques (including hori-
23 zontal drilling, fracture detection methodologies, and
24 three-dimensional seismic), and enhanced recovery tech-
25 niques.



1 **SEC. 12304. LIMITATION ON LOCATION OF ACTIVITIES.**

2 Activities under this subtitle shall be carried out
3 only—

4 (1) in—

5 (A) areas onshore in the United States on
6 public land administered by the Secretary of the
7 Interior available for oil and gas leasing, where
8 consistent with applicable law and land use
9 plans; and

10 (B) areas onshore in the United States on
11 State or private land, subject to applicable law;
12 and

13 (2) with the approval of the appropriate Fed-
14 eral or State land management agency or private
15 land owner.

16 **SEC. 12305. PROGRAM ADMINISTRATION.**

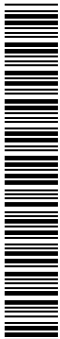
17 (a) **ROLE OF THE SECRETARY.**—The Secretary shall
18 have ultimate responsibility for, and oversight of, all as-
19 pects of the program under this subtitle.

20 (b) **ROLE OF THE PROGRAM CONSORTIUM.**—

21 (1) **IN GENERAL.**—The Secretary shall contract
22 with a consortium to—

23 (A) manage awards pursuant to subsection
24 (e)(4);

25 (B) make recommendations to the Sec-
26 retary for project solicitations;



1 (C) disburse funds awarded under sub-
2 section (e) as directed by the Secretary in ac-
3 cordance with the annual plan under subsection
4 (d); and

5 (D) carry out other activities assigned to
6 the program consortium by this section.

7 (2) LIMITATION.—The Secretary may not as-
8 sign any activities to the program consortium except
9 as specifically authorized under this section.

10 (3) CONFLICT OF INTEREST.—(A) The Sec-
11 retary shall establish procedures—

12 (i) to ensure that each board member, offi-
13 cer, or employee of the program consortium
14 who is in a decisionmaking capacity under sub-
15 section (e)(3) or (4) shall disclose to the Sec-
16 retary any financial interests in, or financial re-
17 lationships with, applicants for or recipients of
18 awards under this section, including those of
19 his or her spouse or minor child, unless such re-
20 lationships or interests would be considered to
21 be remote or inconsequential; and

22 (ii) to require any board member, officer,
23 or employee with a financial relationship or in-
24 terest disclosed under clause (i) to recuse him-
25 self or herself from any review under subsection



1 (e)(3) or oversight under subsection (e)(4) with
2 respect to such applicant or recipient.

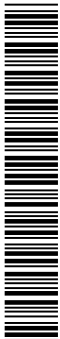
3 (B) The Secretary may disqualify an applica-
4 tion or revoke an award under this section if a board
5 member, officer, or employee has failed to comply
6 with procedures required under subparagraph
7 (A)(ii).

8 (c) SELECTION OF THE PROGRAM CONSORTIUM.—

9 (1) IN GENERAL.—The Secretary shall select
10 the program consortium through an open, competi-
11 tive process.

12 (2) MEMBERS.—The program consortium may
13 include corporations and institutions of higher edu-
14 cation. The Secretary shall give preference in the se-
15 lection of the program consortium to applicants with
16 broad representation from the various major oil and
17 natural gas basins in the United States. After sub-
18 mitting a proposal under paragraph (4), the pro-
19 gram consortium may not add members without the
20 consent of the Secretary.

21 (3) TAX STATUS.—The program consortium
22 shall be an entity that is exempt from tax under sec-
23 tion 501(c)(3) of the Internal Revenue Code of
24 1986.



1 (4) SCHEDULE.—Not later than 90 days after
2 the date of enactment of this Act, the Secretary
3 shall solicit proposals for the creation of the pro-
4 gram consortium, which must be submitted not less
5 than 180 days after the date of enactment of this
6 Act. The Secretary shall select the program consor-
7 tium not later than 240 days after such date of en-
8 actment.

9 (5) APPLICATION.—Applicants shall submit a
10 proposal including such information as the Secretary
11 may require. At a minimum, each proposal shall—

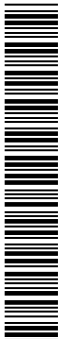
12 (A) list all members of the consortium;

13 (B) fully describe the structure of the con-
14 sortium, including any provisions relating to in-
15 tellectual property; and

16 (C) describe how the applicant would carry
17 out the activities of the program consortium
18 under this section.

19 (6) ELIGIBILITY.—To be eligible to be selected
20 as the program consortium, an applicant must be an
21 entity whose members collectively have demonstrated
22 capabilities in planning and managing programs for
23 the production of oil or natural gas.

24 (7) CRITERION.—The Secretary may consider
25 the amount of the fee an applicant proposes to re-



1 ceive under subsection (f) in selecting a consortium
2 under this section.

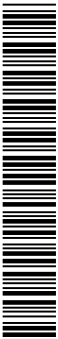
3 (d) ANNUAL PLAN.—

4 (1) IN GENERAL.—The program under this
5 subtitle shall be carried out pursuant to an annual
6 plan prepared by the Secretary in accordance with
7 paragraph (2).

8 (2) DEVELOPMENT.—(A) Before drafting an
9 annual plan under this subsection, the Secretary
10 shall solicit specific written recommendations from
11 the program consortium for each element to be ad-
12 dressed in the plan, including those described in
13 paragraph (4). The Secretary may request that the
14 program consortium submit its recommendations in
15 the form of a draft annual plan.

16 (B) The Secretary shall submit the rec-
17 ommendations of the program consortium under
18 subparagraph (A) to the Advisory Committee for re-
19 view, and the Advisory Committee shall provide to
20 the Secretary written comments by a date deter-
21 mined by the Secretary. The Secretary may also so-
22 licit comments from any other experts.

23 (C) The Secretary shall consult regularly with
24 the program consortium throughout the preparation
25 of the annual plan.



1 (3) PUBLICATION.—The Secretary shall trans-
2 mit to the Congress and publish in the Federal Reg-
3 ister the annual plan, along with any written com-
4 ments received under paragraph (2)(A) and (B).
5 The annual plan shall be transmitted and published
6 not later than 60 days after the date of enactment
7 of an Act making appropriations for a fiscal year for
8 the program under this subtitle.

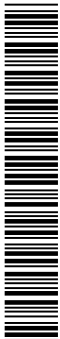
9 (4) CONTENTS.—The annual plan shall describe
10 the ongoing and prospective activities of the pro-
11 gram under this subtitle and shall include—

12 (A) a list of any solicitations for awards
13 that the Secretary plans to issue to carry out
14 activities, including the topics for such work,
15 who would be eligible to apply, selection cri-
16 teria, and the duration of awards; and

17 (B) a description of the activities expected
18 of the program consortium to carry out sub-
19 section (e)(4).

20 (e) AWARDS.—

21 (1) IN GENERAL.—The Secretary shall make
22 awards to carry out activities under the program
23 under this subtitle. The program consortium shall
24 not be eligible to receive such awards, but members
25 of the program consortium may receive such awards.



1 (2) PROPOSALS.—

2 (A) SOLICITATION.—The Secretary shall
3 solicit proposals for awards under this sub-
4 section in such manner and at such time as the
5 Secretary may prescribe, in consultation with
6 the program consortium.

7 (B) CONTENTS.—Each proposal submitted
8 shall include the following:

9 (i) An estimate of the potential
10 unproven reserves in the reservoir, estab-
11 lished by a registered petroleum engineer.

12 (ii) An estimate of the potential for
13 success of the project.

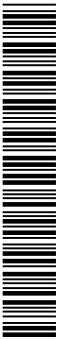
14 (iii) A detailed project plan.

15 (iv) A detailed analysis of the costs
16 associated with the project.

17 (v) A time frame for project comple-
18 tion.

19 (vi) Evidence that any lienholder on
20 the project will subordinate its interests to
21 the extent necessary to ensure that the
22 Federal government receives its portion of
23 any revenues pursuant to section 12308.

24 (vii) Such other matters as the Sec-
25 retary considers appropriate.



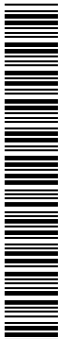
1 (3) REVIEW.—The Secretary shall make awards
2 under this subsection through a competitive process,
3 which shall include a review by individuals selected
4 by the Secretary. Such individuals shall include, for
5 each application, Federal officials, the program con-
6 sortium, and non-Federal experts who are not board
7 members, officers, or employees of the program con-
8 sortium or of a member of the program consortium.

9 (4) OVERSIGHT.—(A) The program consortium
10 shall oversee the implementation of awards under
11 this subsection, consistent with the annual plan
12 under subsection (d), including disbursing funds and
13 monitoring activities carried out under such awards
14 for compliance with the terms and conditions of the
15 awards.

16 (B) Nothing in subparagraph (A) shall limit the
17 authority or responsibility of the Secretary to over-
18 see awards, or limit the authority of the Secretary
19 to review or revoke awards.

20 (C) The Secretary shall provide to the program
21 consortium the information necessary for the pro-
22 gram consortium to carry out its responsibilities
23 under this paragraph.

24 (f) FEE.—To compensate the program consortium
25 for carrying out its activities under this section, the Sec-



1 retary shall provide to the program consortium a fee in
2 an amount not to exceed 7.5 percent of the amounts
3 awarded under subsection (e) for each fiscal year.

4 (g) **DISALLOWED EXPENSES.**—No portion of any
5 award shall be used by a recipient for general or adminis-
6 trative expenses of any kind.

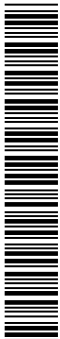
7 (h) **AUDIT.**—The Secretary shall retain an inde-
8 pendent, commercial auditor to determine the extent to
9 which funds provided to the program consortium, and
10 funds provided under awards made under subsection (e),
11 have been expended in a manner consistent with the pur-
12 poses and requirements of this subtitle. The auditor shall
13 transmit a report annually to the Secretary, who shall
14 transmit the report to Congress, along with a plan to rem-
15 edy any deficiencies cited in the report.

16 **SEC. 12306. ADVISORY COMMITTEE.**

17 (a) **ESTABLISHMENT.**—Not later than 270 days after
18 the date of enactment of this Act, the Secretary shall es-
19 tablish an Advisory Committee.

20 (b) **MEMBERSHIP.**—The Advisory Committee shall be
21 composed of members appointed by the Secretary and
22 including—

23 (1) individuals with extensive experience or
24 operational knowledge of oil and natural gas produc-
25 tion, including independent oil and gas producers;



1 (2) individuals broadly representative of oil and
2 natural gas production; and

3 (3) no individuals who are Federal employees.

4 (c) DUTIES.—The Advisory Committee shall advise
5 the Secretary on the development and implementation of
6 activities under this subtitle.

7 (d) COMPENSATION.—A member of the Advisory
8 Committee shall serve without compensation but shall re-
9 ceive travel expenses, including per diem in lieu of subsist-
10 ence, in accordance with applicable provisions under sub-
11 chapter I of chapter 57 of title 5, United States Code.

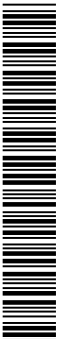
12 (e) PROHIBITION.—The Advisory Committee shall
13 not make recommendations on funding awards to con-
14 sortia or for specific projects.

15 **SEC. 12307. LIMITS ON PARTICIPATION.**

16 An entity shall be eligible to receive an award under
17 this subtitle only if the Secretary finds—

18 (1) that the entity's participation in the pro-
19 gram under this subtitle would be in the economic
20 interest of the United States;

21 (2) that the entity is a United States-owned en-
22 tity organized under the laws of the United States
23 with production levels of less than 1,000 barrels per
24 day of oil equivalent; and



1 (3) that the entity has demonstrated that non-
2 governmental third party sources of financing are
3 not available for the proposal project.

4 **SEC. 12308. PAYMENTS TO FEDERAL GOVERNMENT.**

5 (a) INITIAL RATE.—Until the amount of a grant
6 under this subtitle has been fully repaid to the Federal
7 Government under this subsection, 95 percent of all reve-
8 nues derived from increased incremental production at-
9 tributable to participation in the program under this sub-
10 title shall be paid to the Secretary by the purchaser of
11 such increased production.

12 (b) RATE AFTER REPAYMENT.—After the Federal
13 Government has been fully repaid under subsection (a),
14 5 percent of all revenues derived from increased incre-
15 mental production attributable to participation in the pro-
16 gram under this subtitle shall be paid to the Secretary
17 by the purchaser of such increased production.

18 **SEC. 12309. AUTHORIZATION OF APPROPRIATIONS.**

19 There are authorized to be appropriated to the Sec-
20 retary for carrying out this subtitle \$100,000,000, to re-
21 main available until expended.

22 **SEC. 12310. PUBLIC AVAILABILITY OF PROJECT RESULTS**
23 **AND METHODOLOGIES.**

24 The results of any project undertaken pursuant to
25 this subtitle and the methodologies used to achieve those



1 results shall be made public by the Secretary. The meth-
2 odologies used shall not be proprietary so that such meth-
3 odologies may be used for other projects by persons not
4 seeking awards pursuant to this subtitle.

5 **SEC. 12311. SUNSET.**

6 The authority provided by this subtitle shall termi-
7 nate on September 30, 2010.

8 **SEC. 12312. DEFINITIONS.**

9 In this subtitle:

10 (1) PROGRAM CONSORTIUM.—The term “pro-
11 gram consortium” means the consortium selected
12 under section 12305(c).

13 (2) REMOTE OR INCONSEQUENTIAL.—The term
14 “remote or inconsequential” has the meaning given
15 that term in regulations issued by the Office of Gov-
16 ernment Ethics under section 208(b)(2) of title 18,
17 United States Code.

18 (3) SECRETARY.—The term “Secretary” means
19 the Secretary of Energy.

20 **Subtitle E—Miscellaneous**

21 **SEC. 12401. APPEALS RELATING TO PIPELINE CONSTRUC-**
22 **TION PROJECTS.**

23 (a) AGENCY OF RECORD.—Any Federal administra-
24 tive agency proceeding that is an appeal or review of Fed-
25 eral authority for an interstate natural gas pipeline con-

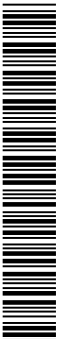


1 struction project, including construction of natural gas
2 storage and liquefied natural gas facilities, shall use as
3 its exclusive record for all purposes the record compiled
4 by the Federal Energy Regulatory Commission pursuant
5 to such Commission's proceeding under section 7 of the
6 Natural Gas Act.

7 (b) SENSE OF THE CONGRESS.—It is the sense of
8 the Congress that all Federal and State agencies with ju-
9 risdiction over interstate natural gas pipeline construction
10 activities should coordinate their proceedings within the
11 time frames established by the Federal Energy Regulatory
12 Commission while it is acting pursuant to section 7 of the
13 Natural Gas Act to determine whether a proposed inter-
14 state natural gas pipeline is in the public convenience and
15 necessity.

16 **SEC. 12402. NATURAL GAS MARKET DATA TRANSPARENCY.**

17 (a) ESTABLISHMENT OF SYSTEM.—Not later than
18 180 days after the date of enactment of this Act, the Fed-
19 eral Energy Regulatory Commission shall issue rules au-
20 thorizing or establishing an electronic information system
21 to provide the Commission and the public with timely ac-
22 cess to such information as is necessary or appropriate
23 to facilitate price transparency and participation in nat-
24 ural gas markets. Such system shall provide information



1 about the market price of natural gas sold in interstate
2 commerce.

3 (b) DATA SUBJECT TO DISCLOSURE.—Rules issued
4 under subsection (a) shall require public availability only
5 of—

6 (1) aggregate data; and

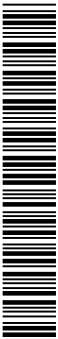
7 (2) transaction-specific data that is otherwise
8 required by the Federal Energy Regulatory Commis-
9 sion to be made public.

10 (c) CIVIL PENALTY.—Any person who violates any
11 provision of a rule issued under subsection (a) shall be
12 subject to a civil penalty of not more than \$1,000,000 for
13 each day that such violation continues. Such penalty shall
14 be assessed by the Federal Energy Regulatory Commis-
15 sion, after notice and opportunity for public hearing. In
16 determining the amount of a proposed penalty, the Com-
17 mission shall take into consideration the seriousness of the
18 violation and the efforts of such person to remedy the vio-
19 lation in a timely manner.

20 **SEC. 12403. OIL AND GAS EXPLORATION AND PRODUCTION**

21 **DEFINED.**

22 Section 502 of the Federal Water Pollution Control
23 Act (33 U.S.C. 1362) is amended by adding at the end
24 the following:



“(24) The term ‘oil and gas exploration and produc-
tion’ means all field operations necessary for both explo-
ration and production of oil and gas, including activities
necessary to prepare a site for drilling and for the move-
ment and placement of drilling equipment, whether or not
such activities may be considered construction activities.”.

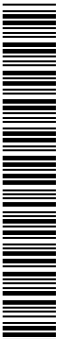
7 SEC. 12404. COMPLEX WELL TECHNOLOGY TESTING FACIL-
8 ITY.

9 The Secretary, in coordination with industry leaders
10 in extended reach drilling technology, shall establish a
11 Complex Well Technology Testing Facility at the Rocky
12 Mountain Oilfield Testing Center to increase the range of
13 extended drilling technology to 50,000 feet, so that more
14 energy resources can be realized with fewer drilling facili-
15 ties.

16 **TITLE III—HYDROELECTRIC**
17 **Subtitle A—Alternative Conditions**

18 **SEC. 13001. ALTERNATIVE CONDITIONS AND FISHWAYS.**

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after “adequate protection and utilization of such reservation.” at the end of the first proviso the following: “The license applicant shall be entitled to a determination on the record, after opportunity for an agency trial-type



1 hearing of any disputed issues of material fact, with re-
2 spect to such conditions.”.

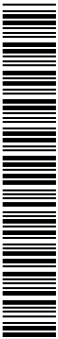
3 (b) FISHWAYS.—Section 18 of the Federal Power Act
4 (16 U.S.C. 811) is amended by inserting after “and such
5 fishways as may be prescribed by the Secretary of Com-
6 merce.” the following: “The license applicant shall be enti-
7 tled to a determination on the record, after opportunity
8 for an agency trial-type hearing of any disputed issues of
9 material fact, with respect to such fishways.”.

10 (c) ALTERNATIVE CONDITIONS AND PRESCRIP-
11 TIONS.—Part I of the Federal Power Act (16 U.S.C. 791a
12 et seq.) is amended by adding the following new section
13 at the end thereof:

14 **“SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

15 “(a) ALTERNATIVE CONDITIONS.—(1) Whenever any
16 person applies for a license for any project works within
17 any reservation of the United States, and the Secretary
18 of the department under whose supervision such reserva-
19 tion falls (referred to in this subsection as ‘the Secretary’)
20 deems a condition to such license to be necessary under
21 the first proviso of section 4(e), the license applicant may
22 propose an alternative condition.

23 “(2) Notwithstanding the first proviso of section 4(e),
24 the Secretary shall accept the proposed alternative condi-
25 tion referred to in paragraph (1), and the Commission



1 shall include in the license such alternative condition, if
2 the Secretary determines, based on substantial evidence
3 provided by the license applicant or otherwise available to
4 the Secretary, that such alternative condition—

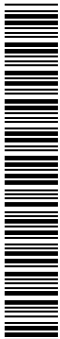
5 “(A) provides for the adequate protection and
6 utilization of the reservation; and

7 “(B) will either—

8 “(i) cost less to implement; or

9 “(ii) result in improved operation of the
10 project works for electricity production,
11 as compared to the condition initially deemed nec-
12 essary by the Secretary.

13 “(3) The Secretary shall submit into the public
14 record of the Commission proceeding with any condition
15 under section 4(e) or alternative condition it accepts under
16 this section, a written statement explaining the basis for
17 such condition, and reason for not accepting any alter-
18 native condition under this section. The written statement
19 must demonstrate that the Secretary gave equal consider-
20 ation to the effects of the condition adopted and alter-
21 natives not accepted on energy supply, distribution, cost,
22 and use; flood control; navigation; water supply; and air
23 quality (in addition to the preservation of other aspects
24 of environmental quality); based on such information as
25 may be available to the Secretary, including information

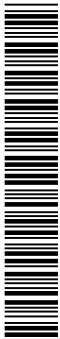


1 voluntarily provided in a timely manner by the applicant
2 and others. The Secretary shall also submit, together with
3 the aforementioned written statement, all studies, data,
4 and other factual information available to the Secretary
5 and relevant to the Secretary's decision.

6 “(4) Nothing in this section shall prohibit other inter-
7 ested parties from proposing alternative conditions.

8 “(5) If the Secretary does not accept an applicant's
9 alternative condition under this section, and the Commis-
10 sion finds that the Secretary's condition would be incon-
11 sistent with the purposes of this part, or other applicable
12 law, the Commission may refer the dispute to the Commis-
13 sion's Dispute Resolution Service. The Dispute Resolution
14 Service shall consult with the Secretary and the Commis-
15 sion and issue a non-binding advisory within 90 days. The
16 Secretary may accept the Dispute Resolution Service advi-
17 sory unless the Secretary finds that the recommendation
18 will not adequately protect the reservation. The Secretary
19 shall submit the advisory and the Secretary's final written
20 determination into the record of the Commission's pro-
21 ceeding.

22 “(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever
23 the Secretary of the Interior or the Secretary of Commerce
24 prescribes a fishway under section 18, the license appli-
25 cant or licensee may propose an alternative to such pre-



1 scription to construct, maintain, or operate a fishway. The
2 alternative may include a fishway or an alternative to a
3 fishway.

4 “(2) Notwithstanding section 18, the Secretary of the
5 Interior or the Secretary of Commerce, as appropriate,
6 shall accept and prescribe, and the Commission shall re-
7 quire, the proposed alternative referred to in paragraph
8 (1), if the Secretary of the appropriate department deter-
9 mines, based on substantial evidence provided by the li-
10 censee or otherwise available to the Secretary, that such
11 alternative—

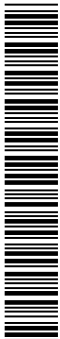
12 “(A) will be no less protective of the fish re-
13 sources than the fishway initially prescribed by the
14 Secretary; and

15 “(B) will either—

16 “(i) cost less to implement; or

17 “(ii) result in improved operation of the
18 project works for electricity production,
19 as compared to the fishway initially deemed nec-
20 essary by the Secretary.

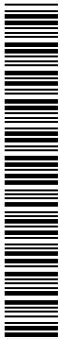
21 “(3) The Secretary concerned shall submit into the
22 public record of the Commission proceeding with any pre-
23 scription under section 18 or alternative prescription it ac-
24 cepts under this section, a written statement explaining
25 the basis for such prescription, and reason for not accept-



1 ing any alternative prescription under this section. The
2 written statement must demonstrate that the Secretary
3 gave equal consideration to the effects of the condition
4 adopted and alternatives not accepted on energy supply,
5 distribution, cost, and use; flood control; navigation; water
6 supply; and air quality (in addition to the preservation of
7 other aspects of environmental quality); based on such in-
8 formation as may be available to the Secretary, including
9 information voluntarily provided in a timely manner by the
10 applicant and others. The Secretary shall also submit, to-
11 gether with the aforementioned written statement, all
12 studies, data, and other factual information available to
13 the Secretary and relevant to the Secretary's decision.

14 “(4) Nothing in this section shall prohibit other inter-
15 ested parties from proposing alternative prescriptions.

16 “(5) If the Secretary concerned does not accept an
17 applicant's alternative prescription under this section, and
18 the Commission finds that the Secretary's prescription
19 would be inconsistent with the purposes of this part, or
20 other applicable law, the Commission may refer the dis-
21 pute to the Commission's Dispute Resolution Service. The
22 Dispute Resolution Service shall consult with the Sec-
23 retary and the Commission and issue a non-binding advi-
24 sory within 90 days. The Secretary may accept the Dis-
25 pute Resolution Service advisory unless the Secretary



1 finds that the recommendation will not adequately protect
2 the fish resources. The Secretary shall submit the advisory
3 and the Secretary's final written determination into the
4 record of the Commission's proceeding.”.

5 **Subtitle B—Additional Hydropower**

6 **SEC. 13201. HYDROELECTRIC PRODUCTION INCENTIVES.**

7 (a) INCENTIVE PAYMENTS.—For electric energy gen-
8 erated and sold by a qualified hydroelectric facility during
9 the incentive period, the Secretary of Energy (referred to
10 in this section as the “Secretary”) shall make, subject to
11 the availability of appropriations, incentive payments to
12 the owner or operator of such facility. The amount of such
13 payment made to any such owner or operator shall be as
14 determined under subsection (e) of this section. Payments
15 under this section may only be made upon receipt by the
16 Secretary of an incentive payment application which estab-
17 lishes that the applicant is eligible to receive such payment
18 and which satisfies such other requirements as the Sec-
19 retary deems necessary. Such application shall be in such
20 form, and shall be submitted at such time, as the Sec-
21 retary shall establish.

22 (b) DEFINITIONS.—For purposes of this section:

23 (1) QUALIFIED HYDROELECTRIC FACILITY.—

24 The term “qualified hydroelectric facility” means a
25 turbine or other generating device owned or solely



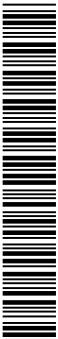
1 operated by a non-Federal entity which generates
2 hydroelectric energy for sale and which is added to
3 an existing dam or conduit.

4 (2) EXISTING DAM OR CONDUIT.—The term
5 “existing dam or conduit” means any dam or con-
6 duit the construction of which was completed before
7 the date of the enactment of this section and which
8 does not require any construction or enlargement of
9 impoundment or diversion structures (other than re-
10 pair or reconstruction) in connection with the instal-
11 lation of a turbine or other generating device.

12 (3) CONDUIT.—The term “conduit” has the
13 same meaning as when used in section 30(a)(2) of
14 the Federal Power Act.

15 The terms defined in this subsection shall apply without
16 regard to the hydroelectric kilowatt capacity of the facility
17 concerned, without regard to whether the facility uses a
18 dam owned by a governmental or nongovernmental entity,
19 and without regard to whether the facility begins oper-
20 ation on or after the date of the enactment of this section.

21 (c) ELIGIBILITY WINDOW.—Payments may be made
22 under this section only for electric energy generated from
23 a qualified hydroelectric facility which begins operation
24 during the period of 10 fiscal years beginning with the



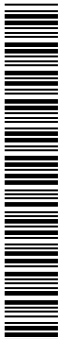
1 first full fiscal year occurring after the date of enactment
2 of this subtitle.

3 (d) INCENTIVE PERIOD.—A qualified hydroelectric
4 facility may receive payments under this section for a pe-
5 riod of 10 fiscal years (referred to in this section as the
6 “incentive period”). Such period shall begin with the fiscal
7 year in which electric energy generated from the facility
8 is first eligible for such payments.

9 (e) AMOUNT OF PAYMENT.—

10 (1) IN GENERAL.—Payments made by the Sec-
11 retary under this section to the owner or operator of
12 a qualified hydroelectric facility shall be based on
13 the number of kilowatt hours of hydroelectric energy
14 generated by the facility during the incentive period.
15 For any such facility, the amount of such payment
16 shall be 1.8 cents per kilowatt hour (adjusted as
17 provided in paragraph (2)), subject to the avail-
18 ability of appropriations under subsection (g), except
19 that no facility may receive more than \$750,000 in
20 one calendar year.

21 (2) ADJUSTMENTS.—The amount of the pay-
22 ment made to any person under this section as pro-
23 vided in paragraph (1) shall be adjusted for inflation
24 for each fiscal year beginning after calendar year
25 2003 in the same manner as provided in the provi-



1 sions of section 29(d)(2)(B) of the Internal Revenue
2 Code of 1986, except that in applying such provi-
3 sions the calendar year 2003 shall be substituted for
4 calendar year 1979.

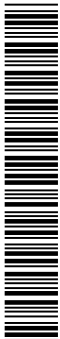
5 (f) SUNSET.—No payment may be made under this
6 section to any qualified hydroelectric facility after the ex-
7 piration of the period of 20 fiscal years beginning with
8 the first full fiscal year occurring after the date of enact-
9 ment of this subtitle, and no payment may be made under
10 this section to any such facility after a payment has been
11 made with respect to such facility for a period of 10 fiscal
12 years.

13 (g) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Secretary to carry
15 out the purposes of this section \$10,000,000 for each of
16 the fiscal years 2004 through 2013.

17 **SEC. 13202. HYDROELECTRIC EFFICIENCY IMPROVEMENT.**

18 (a) INCENTIVE PAYMENTS.—The Secretary of En-
19 ergy shall make incentive payments to the owners or oper-
20 ators of hydroelectric facilities at existing dams to be used
21 to make capital improvements in the facilities that are di-
22 rectly related to improving the efficiency of such facilities
23 by at least 3 percent.

24 (b) LIMITATIONS.—Incentive payments under this
25 section shall not exceed 10 percent of the costs of the cap-



1 ital improvement concerned and not more than one pay-
2 ment may be made with respect to improvements at a sin-
3 gle facility. No payment in excess of \$750,000 may be
4 made with respect to improvements at a single facility.

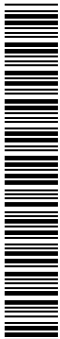
5 (c) AUTHORIZATION.—There is authorized to be ap-
6 propriated to carry out this section not more than
7 \$10,000,000 for each of the fiscal years 2004 through
8 2013.

9 **SEC. 13203. SMALL HYDROELECTRIC POWER PROJECTS.**

10 Section 408(a)(6) of the Public Utility Regulatory
11 Policies Act of 1978 is amended by striking “April 20,
12 1977” and inserting “March 4, 2003”.

13 **SEC. 13204. INCREASED HYDROELECTRIC GENERATION AT**
14 **EXISTING FEDERAL FACILITIES.**

15 (a) IN GENERAL.—The Secretary of Energy, in con-
16 sultation with the Secretary of the Interior and Secretary
17 of the Army, shall conduct studies of the cost-effective op-
18 portunities to increase hydropower generation at existing
19 federally-owned or operated water regulation, storage, and
20 conveyance facilities. Such studies shall be completed with-
21 in two years after the date of enactment of this subtitle
22 and transmitted to the Committee on Commerce of the
23 House of Representatives and the Committee on Energy
24 and Natural Resources of the Senate. An individual study
25 shall be prepared for each of the Nation’s principal river



1 basins. Each such study shall identify and describe with
2 specificity the following matters:

3 (1) Opportunities to improve the efficiency of
4 hydropower generation at such facilities through, but
5 not limited to, mechanical, structural, or operational
6 changes.

7 (2) Opportunities to improve the efficiency of
8 the use of water supplied or regulated by Federal
9 projects where such improvement could, in the ab-
10 sence of legal or administrative constraints, make
11 additional water supplies available for hydropower
12 generation or reduce project energy use.

13 (3) Opportunities to create additional hydro-
14 power generating capacity at existing facilities
15 through, but not limited to, the construction of addi-
16 tional generating facilities, the uprating of genera-
17 tors and turbines, and the construction of pumped
18 storage facilities.

19 (4) Preliminary assessment of the costs and the
20 economic and environmental consequences of such
21 measures.

22 (b) PREVIOUS STUDIES.—If studies of the type re-
23 quired by subsection (a) have been prepared by any agency
24 of the United States and published within the five years
25 prior to the date of enactment of this subtitle, the Sec-



1 retary of Energy may choose not to perform new studies
2 and incorporate the information in such studies into the
3 studies required by subsection (a).

4 (c) AUTHORIZATION.—There is authorized to be ap-
5 propriated such sums as may be necessary to carry out
6 the purposes of this section.

7 **TITLE IV—NUCLEAR MATTERS**
8 **Subtitle A—Price-Anderson Act**
9 **Amendments**

10 **SEC. 14001. SHORT TITLE.**

11 This subtitle may be cited as the “Price-Anderson
12 Amendments Act of 2003”.

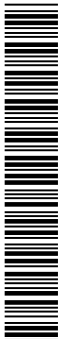
13 **SEC. 14002. EXTENSION OF INDEMNIFICATION AUTHORITY.**

14 (a) INDEMNIFICATION OF NUCLEAR REGULATORY
15 COMMISSION LICENSEES.—Section 170 c. of the Atomic
16 Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

17 (1) in the subsection heading, by striking “Li-
18 censes” and inserting “LICENSEES”; and

19 (2) by striking “December 31, 2003” each
20 place it appears and inserting “August 1, 2017”.

21 (b) INDEMNIFICATION OF DEPARTMENT OF ENERGY
22 CONTRACTORS.—Section 170 d.(1)(A) of the Atomic En-
23 ergy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended
24 by striking “December 31, 2004” and inserting “August
25 1, 2017”.



1 (c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL
2 INSTITUTIONS.—Section 170 k. of the Atomic Energy Act
3 of 1954 (42 U.S.C. 2210(k)) is amended by striking “Au-
4 gust 1, 2002” each place it appears and inserting “August
5 1, 2017”.

6 **SEC. 14003. MAXIMUM ASSESSMENT.**

7 Section 170 of the Atomic Energy Act of 1954 (42
8 U.S.C. 2210) is amended—

9 (1) in subsection b.(1), in the second proviso of
10 the third sentence—

11 (A) by striking “\$63,000,000” and insert-
12 ing “\$94,000,000”; and

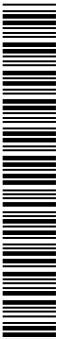
13 (B) by striking “\$10,000,000 in any 1
14 year” and inserting “\$15,000,000 in any 1 year
15 (subject to adjustment for inflation under sub-
16 section t.)”; and

17 (2) in subsection t.—

18 (A) by inserting “total and annual” after
19 “amount of the maximum”;

20 (B) by striking “the date of the enactment
21 of the Price-Anderson Amendments Act of
22 1988” and inserting “July 1, 2002”; and

23 (C) by striking “such date of enactment”
24 and inserting “July 1, 2002”.



1 **SEC. 14004. DEPARTMENT OF ENERGY LIABILITY LIMIT.**

2 (a) INDEMNIFICATION OF DEPARTMENT OF ENERGY
3 CONTRACTORS.—Section 170 d. of the Atomic Energy Act
4 of 1954 (42 U.S.C. 2210(d)) is amended by striking para-
5 graph (2) and inserting the following:

6 “(2) In an agreement of indemnification entered into
7 under paragraph (1), the Secretary—

8 “(A) may require the contractor to provide and
9 maintain the financial protection of such a type and
10 in such amounts as the Secretary shall determine to
11 be appropriate to cover public liability arising out of
12 or in connection with the contractual activity; and

13 “(B) shall indemnify the persons indemnified
14 against such liability above the amount of the finan-
15 cial protection required, in the amount of
16 \$10,000,000,000 (subject to adjustment for inflation
17 under subsection t.), in the aggregate, for all per-
18 sons indemnified in connection with the contract and
19 for each nuclear incident, including such legal costs
20 of the contractor as are approved by the Secretary.”.

21 (b) CONTRACT AMENDMENTS.—Section 170 d. of the
22 Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is
23 amended by striking paragraph (3) and inserting the fol-
24 lowing:

25 “(3) All agreements of indemnification under which
26 the Department of Energy (or its predecessor agencies)



1 may be required to indemnify any person under this sec-
2 tion shall be deemed to be amended, on the date of enact-
3 ment of the Price-Anderson Amendments Act of 2003, to
4 reflect the amount of indemnity for public liability and any
5 applicable financial protection required of the contractor
6 under this subsection.”.

7 (c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the
8 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is
9 amended—

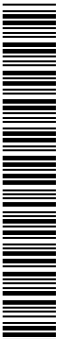
10 (1) by striking “the maximum amount of finan-
11 cial protection required under subsection b. or”; and

12 (2) by striking “paragraph (3) of subsection d.,
13 whichever amount is more” and inserting “para-
14 graph (2) of subsection d.”.

15 **SEC. 14005. INCIDENTS OUTSIDE THE UNITED STATES.**

16 (a) AMOUNT OF INDEMNIFICATION.—Section 170
17 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C.
18 2210(d)(5)) is amended by striking “\$100,000,000” and
19 inserting “\$500,000,000”.

20 (b) LIABILITY LIMIT.—Section 170 e.(4) of the
21 Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is
22 amended by striking “\$100,000,000” and inserting
23 “\$500,000,000”.



1 **SEC. 14006. REPORTS.**

2 Section 170 p. of the Atomic Energy Act of 1954 (42
3 U.S.C. 2210(p)) is amended by striking “August 1, 1998”
4 and inserting “August 1, 2013”.

5 **SEC. 14007. INFLATION ADJUSTMENT.**

6 Section 170 t. of the Atomic Energy Act of 1954 (42
7 U.S.C. 2210(t)) is amended—

8 (1) by redesignating paragraph (2) as para-
9 graph (3); and

10 (2) by adding after paragraph (1) the following:

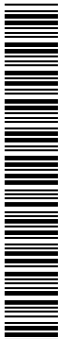
11 “(2) The Secretary shall adjust the amount of indem-
12 nification provided under an agreement of indemnification
13 under subsection d. not less than once during each 5-year
14 period following July 1, 2002, in accordance with the ag-
15 gregate percentage change in the Consumer Price Index
16 since—

17 “(A) that date, in the case of the first adjust-
18 ment under this paragraph; or

19 “(B) the previous adjustment under this para-
20 graph.”.

21 **SEC. 14008. PRICE-ANDERSON TREATMENT OF MODULAR**
22 **REACTORS.**

23 Section 170 b. of the Atomic Energy Act of 1954 (42
24 U.S.C. 2210(b)) is amended by adding at the end the fol-
25 lowing new paragraph:



1 “(5)(A) For purposes of this section only, the Com-
2 mission shall consider a combination of facilities described
3 in subparagraph (B) to be a single facility having a rated
4 capacity of 100,000 electrical kilowatts or more.

5 “(B) A combination of facilities referred to in sub-
6 paragraph (A) is 2 or more facilities located at a single
7 site, each of which has a rated capacity of 100,000 elec-
8 trical kilowatts or more but not more than 300,000 elec-
9 trical kilowatts, with a combined rated capacity of not
10 more than 1,300,000 electrical kilowatts.”.

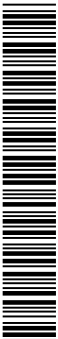
11 **SEC. 14009. APPLICABILITY.**

12 The amendments made by sections 14003, 14004,
13 and 14005 do not apply to a nuclear incident that occurs
14 before the date of enactment of this Act.

15 **SEC. 14010. PROHIBITION ON ASSUMPTION BY UNITED**
16 **STATES GOVERNMENT OF LIABILITY FOR**
17 **CERTAIN FOREIGN ACCIDENTS.**

18 Section 170 of the Atomic Energy Act of 1954 (42
19 U.S.C. 2210) is amended by adding at the end the fol-
20 lowing new subsection:

21 “u. PROHIBITION ON ASSUMPTION OF LIABILITY FOR
22 CERTAIN FOREIGN ACCIDENTS.—Notwithstanding this
23 section or any other provision of law, no officer of the
24 United States or of any department, agency, or instrumen-
25 tality of the United States Government may enter into any

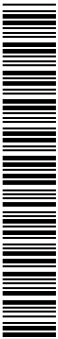


1 contract or other arrangement, or into any amendment or
2 modification of a contract or other arrangement, the pur-
3 pose or effect of which would be to directly or indirectly
4 impose liability on the United States Government, or any
5 department, agency, or instrumentality of the United
6 States Government, or to otherwise directly or indirectly
7 require an indemnity by the United States Government,
8 for nuclear accidents occurring in connection with the de-
9 sign, construction, or operation of a production facility or
10 utilization facility in any country whose government has
11 been identified by the Secretary of State as engaged in
12 state sponsorship of terrorist activities (specifically includ-
13 ing any country the government of which, as of September
14 11, 2001, had been determined by the Secretary of State
15 under section 620A(a) of the Foreign Assistance Act of
16 1961, section 6(j)(1) of the Export Administration Act of
17 1979, or section 40(d) of the Arms Export Control Act
18 to have repeatedly provided support for acts of inter-
19 national terrorism).”.

20 **SEC. 14011. SECURE TRANSFER OF NUCLEAR MATERIALS.**

21 (a) AMENDMENT.—Chapter 14 of the Atomic Energy
22 Act of 1954 (42 U.S.C. 2201–2210b) is amended by add-
23 ing at the end the following new section:

24 “SEC. 170C. SECURE TRANSFER OF NUCLEAR MA-
25 TERIALS.—



1 “a. The Nuclear Regulatory Commission shall estab-
2 lish a system to ensure that, with respect to activities by
3 any party pursuant to a license issued under this Act—

4 “(1) materials described in subsection b., when
5 transferred or received in the United States—

6 “(A) from a facility licensed by the Nu-
7 clear Regulatory Commission;

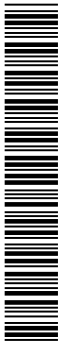
8 “(B) from a facility licensed by an agree-
9 ment State; or

10 “(C) from a country with whom the United
11 States has an agreement for cooperation under
12 section 123,

13 are accompanied by a manifest describing the type
14 and amount of materials being transferred;

15 “(2) each individual transferring or accom-
16 panying the transfer of such materials has been sub-
17 ject to a security background check by appropriate
18 Federal entities; and

19 “(3) such materials are not transferred to or
20 received at a destination other than a facility li-
21 censed by the Nuclear Regulatory Commission or an
22 agreement State under this Act or other appropriate
23 Federal facility, or a destination outside the United
24 States in a country with whom the United States
25 has an agreement for cooperation under section 123.



1 “b. Except as otherwise provided by the Commission
2 by regulation, the materials referred to in subsection a.
3 are byproduct materials, source materials, special nuclear
4 materials, high-level radioactive waste, spent nuclear fuel,
5 transuranic waste, and low-level radioactive waste (as de-
6 fined in section 2(16) of the Nuclear Waste Policy Act
7 of 1982 (42 U.S.C. 10101(16))).”.

8 (b) REGULATIONS.—Not later than 1 year after the
9 date of the enactment of this Act, and from time to time
10 thereafter as it considers necessary, the Nuclear Regu-
11 latory Commission shall issue regulations identifying ra-
12 dioactive materials that, consistent with the protection of
13 public health and safety and the common defense and se-
14 curity, are appropriate exceptions to the requirements of
15 section 170C of the Atomic Energy Act of 1954, as added
16 by subsection (a) of this section.

17 (c) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect upon the issuance of regu-
19 lations under subsection (b).

20 (d) EFFECT ON OTHER LAW.—Nothing in this sec-
21 tion or the amendment made by this section shall waive,
22 modify, or affect the application of chapter 51 of title 49,
23 United States Code, part A of subtitle V of title 49,
24 United States Code, part B of subtitle VI of title 49,
25 United States Code, and title 23, United States Code.



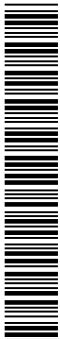
1 (e) TABLE OF SECTIONS AMENDMENT.—The table of
2 sections for chapter 14 of the Atomic Energy Act of 1954
3 is amended by adding at the end the following new item:

“Sec. 170C. Secure transfer of nuclear materials.”.

4 **SEC. 14012. NUCLEAR FACILITY THREATS.**

5 (a) STUDY.—The President, in consultation with the
6 Nuclear Regulatory Commission and other appropriate
7 Federal, State, and local agencies and private entities,
8 shall conduct a study to identify the types of threats that
9 pose an appreciable risk to the security of the various
10 classes of facilities licensed by the Nuclear Regulatory
11 Commission under the Atomic Energy Act of 1954. Such
12 study shall take into account, but not be limited to—

- 13 (1) the events of September 11, 2001;
- 14 (2) an assessment of physical, cyber, bio-
15 chemical, and other terrorist threats;
- 16 (3) the potential for attack on facilities by mul-
17 tiple coordinated teams of a large number of individ-
18 uals;
- 19 (4) the potential for assistance in an attack
20 from several persons employed at the facility;
- 21 (5) the potential for suicide attacks;
- 22 (6) the potential for water-based and air-based
23 threats;
- 24 (7) the potential use of explosive devices of con-
25 siderable size and other modern weaponry;



1 (8) the potential for attacks by persons with a
2 sophisticated knowledge of facility operations;

3 (9) the potential for fires, especially fires of
4 long duration; and

5 (10) the potential for attacks on spent fuel
6 shipments by multiple coordinated teams of a large
7 number of individuals.

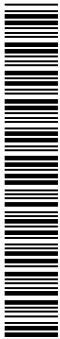
8 (b) SUMMARY AND CLASSIFICATION REPORT.—Not
9 later than 180 days after the date of the enactment of
10 this Act, the President shall transmit to the Congress and
11 the Nuclear Regulatory Commission a report—

12 (1) summarizing the types of threats identified
13 under subsection (a); and

14 (2) classifying each type of threat identified
15 under subsection (a), in accordance with existing
16 laws and regulations, as either—

17 (A) involving attacks and destructive acts,
18 including sabotage, directed against the facility
19 by an enemy of the United States, whether a
20 foreign government or other person, or other-
21 wise falling under the responsibilities of the
22 Federal Government; or

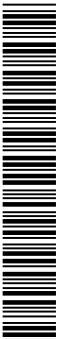
23 (B) involving the type of risks that Nu-
24 clear Regulatory Commission licensees should
25 be responsible for guarding against.



1 (c) FEDERAL ACTION REPORT.—Not later than 90
2 days after the date on which a report is transmitted under
3 subsection (b), the President shall transmit to the Con-
4 gress a report on actions taken, or to be taken, to address
5 the types of threats identified under subsection (b)(2)(A).
6 Such report may include a classified annex as appropriate.

7 (d) REGULATIONS.—Not later than 270 days after
8 the date on which a report is transmitted under subsection
9 (b), the Nuclear Regulatory Commission shall issue regu-
10 lations, including changes to the design basis threat, to
11 ensure that licensees address the threats identified under
12 subsection (b)(2)(B).

13 (e) PHYSICAL SECURITY PROGRAM.—The Nuclear
14 Regulatory Commission shall establish an operational
15 safeguards response evaluation program that ensures that
16 the physical protection capability and operational safe-
17 guards response for sensitive nuclear facilities, as deter-
18 mined by the Commission consistent with the protection
19 of public health and the common defense and security,
20 shall be tested periodically through Commission approved
21 or designed, observed, and evaluated force-on-force exer-
22 cises to determine whether the ability to defeat the design
23 basis threat is being maintained. For purposes of this sub-
24 section, the term “sensitive nuclear facilities” includes at
25 a minimum commercial nuclear power plants, including



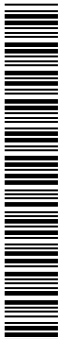
1 associated spent fuel storage facilities, spent fuel storage
2 pools and dry cask storage at closed reactors, independent
3 spent fuel storage facilities and geologic repository oper-
4 ations areas, category I fuel cycle facilities, and gaseous
5 diffusion plants.

6 (f) CONTROL OF INFORMATION.—In carrying out this
7 section, the President and the Nuclear Regulatory Com-
8 mission shall control the dissemination of restricted data,
9 safeguards information, and other classified national secu-
10 rity information in a manner so as to ensure the common
11 defense and security, consistent with chapter 12 of the
12 Atomic Energy Act of 1954.

13 **SEC. 14013. UNREASONABLE RISK CONSULTATION.**

14 Section 170 of the Atomic Energy Act of 1954 (42
15 U.S.C. 2210) is amended by adding at the end the fol-
16 lowing new subsection:

17 “V. UNREASONABLE RISK CONSULTATION.—(1) Be-
18 fore entering into an agreement of indemnification under
19 this section with respect to a utilization facility, the Nu-
20 clear Regulatory Commission shall consult with the Assist-
21 ant to the President for Homeland Security (or any suc-
22 cessor official) concerning whether the location of the pro-
23 posed facility and the design of that type of facility ensure
24 that the facility provides for adequate protection of public
25 health and safety if subject to a terrorist attack.



1 “(2) Before issuing a license or a license renewal for
2 a sensitive nuclear facility, the Nuclear Regulatory Com-
3 mission shall consult with the Secretary of Homeland Se-
4 curity or his designee concerning the emergency evacu-
5 ation plan for the communities living near the sensitive
6 nuclear facility. For purposes of this paragraph, the term
7 ‘sensitive nuclear facility’ has the meaning given that term
8 in section 14012 of the Energy Policy Act of 2003.”.

9 **SEC. 14014. FINANCIAL ACCOUNTABILITY.**

10 (a) AMENDMENT.—Section 170 of the Atomic En-
11 ergy Act of 1954 (42 U.S.C. 2210) is amended by adding
12 at the end the following new subsection:

13 “w. FINANCIAL ACCOUNTABILITY.—(1) Notwith-
14 standing subsection d., the Attorney General may bring
15 an action in the appropriate United States district court
16 to recover from a contractor of the Secretary (or subcon-
17 tractor or supplier of such contractor) amounts paid by
18 the Federal Government under an agreement of indem-
19 nification under subsection d. for public liability resulting
20 from conduct which constitutes intentional misconduct of
21 any corporate officer, manager, or superintendent of such
22 contractor (or subcontractor or supplier of such con-
23 tractor).



1 “(2) The Attorney General may recover under para-
2 graph (1) an amount not to exceed the amount of the prof-
3 it derived by the defendant from the contract.

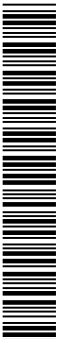
4 “(3) No amount recovered from any contractor (or
5 subcontractor or supplier of such contractor) under para-
6 graph (1) may be reimbursed directly or indirectly by the
7 Department of Energy.

8 “(4) Paragraph (1) shall not apply to any nonprofit
9 entity conducting activities under contract for the Sec-
10 retary.

11 “(5) No waiver of a defense required under this sec-
12 tion shall prevent a defendant from asserting such defense
13 in an action brought under this subsection.

14 “(6) The Secretary shall, by rule, define the terms
15 ‘profit’ and ‘nonprofit entity’ for purposes of this sub-
16 section. Such rulemaking shall be completed not later than
17 180 days after the date of the enactment of this sub-
18 section.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 this section shall not apply to any agreement of indem-
21 nification entered into under section 170 d. of the Atomic
22 Energy Act of 1954 (42 U.S.C. 2210(d)) before the date
23 of the enactment of this Act.



1 **SEC. 14015. CIVIL PENALTIES.**

2 (a) REPEAL OF AUTOMATIC REMISSION.—Section
3 234A b. (2) of the Atomic Energy Act of 1954 (42 U.S.C.
4 2282a(b)(2)) is amended by striking the last sentence.

5 (b) LIMITATION FOR NONPROFIT INSTITUTIONS.—
6 Subsection d. of section 234A of the Atomic Energy Act
7 of 1954 (42 U.S.C. 2282a(d)) is amended to read as fol-
8 lows:

9 “d. Notwithstanding subsection a., a civil penalty for
10 a violation under subsection a. shall not exceed the amount
11 of any discretionary fee paid under the contract under
12 which such violation occurs for any nonprofit contractor,
13 subcontractor, or supplier—

14 “(1) described in section 501(c)(3) of the Inter-
15 nal Revenue Code of 1986 and exempt from tax
16 under section 501(a) of such Code; or

17 “(2) identified by the Secretary by rule as ap-
18 propriate to be treated the same under this sub-
19 section as an entity described in paragraph (1), con-
20 sistent with the purposes of this section.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall not apply to any violation of the Atomic
23 Energy Act of 1954 occurring under a contract entered
24 into before the date of the enactment of this Act.

25 (d) RULEMAKING.—Not later than 6 months after
26 the date of the enactment of this Act, the Secretary of



1 Energy shall issue a rule for the implementation of the
2 amendment made by subsection (b).

3 **Subtitle B—Miscellaneous Matters**

4 **SEC. 14021. LICENSES.**

5 Section 103 c. of the Atomic Energy Act of 1954 (42
6 U.S.C. 2133(c)) is amended by inserting “from the au-
7 thorization to commence operations” after “forty years”.

8 **SEC. 14022. NUCLEAR REGULATORY COMMISSION MEET-** 9 **INGS.**

10 If a quorum of the Nuclear Regulatory Commission
11 gathers to discuss official Commission business the discus-
12 sions shall be recorded, and the Commission shall notify
13 the public of such discussions within 15 days after they
14 occur. The Commission shall promptly make a transcript
15 of the recording available to the public on request, except
16 to the extent that public disclosure is exempted or prohib-
17 ited by law. This section shall not apply to a meeting,
18 within the meaning of that term under section 552b(a)(2)
19 of title 5, United States Code.

20 **SEC. 14023. NRC TRAINING PROGRAM.**

21 (a) IN GENERAL.—In order to maintain the human
22 resource investment and infrastructure of the United
23 States in the nuclear sciences, health physics, and engi-
24 neering fields, in accordance with the statutory authorities
25 of the Commission relating to the civilian nuclear energy



1 program, the Nuclear Regulatory Commission shall carry
2 out a training and fellowship program to address short-
3 ages of individuals with critical nuclear safety regulatory
4 skills.

5 (b) AUTHORIZATION OF APPROPRIATIONS.—

6 (1) IN GENERAL.—There are authorized to be
7 appropriated to carry out this section \$1,000,000 for
8 each of fiscal years 2004 through 2007.

9 (2) AVAILABILITY.—Funds made available
10 under paragraph (1) shall remain available until ex-
11 pended.

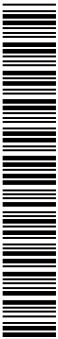
12 **SEC. 14024. COST RECOVERY FROM GOVERNMENT AGEN-**
13 **CIES.**

14 Section 161 w. of the Atomic Energy Act of 1954
15 (42 U.S.C. 2201(w)) is amended—

16 (1) by striking “for or is issued” and all that
17 follows through “1702” and inserting “to the Com-
18 mission for, or is issued by the Commission, a li-
19 cense or certificate”;

20 (2) by striking “483a” and inserting “9701”;
21 and

22 (3) by striking “, of applicants for, or holders
23 of, such licenses or certificates”.



1 **SEC. 14025. ELIMINATION OF PENSION OFFSET.**

2 Section 161 of the Atomic Energy Act of 1954 (42
3 U.S.C. 2201) is amended by adding at the end the fol-
4 lowing:

5 “y. exempt from the application of sections
6 8344 and 8468 of title 5, United States Code, an
7 annuitant who was formerly an employee of the
8 Commission who is hired by the Commission as a
9 consultant, if the Commission finds that the annu-
10 itant has a skill that is critical to the performance
11 of the duties of the Commission.”.

12 **SEC. 14026. CARRYING OF FIREARMS BY LICENSEE EM-**
13 **PLOYEES.**

14 Section 161 k. of the Atomic Energy Act of 1954 (42
15 U.S.C. 2201(k)) is amended to read as follows:

16 “k. authorize such of its members, officers, and
17 employees as it deems necessary in the interest of
18 the common defense and security to carry firearms
19 while in the discharge of their official duties. The
20 Commission may also authorize—

21 “(1) such of those employees of its con-
22 tractors and subcontractors (at any tier) en-
23 gaged in the protection of property under the
24 jurisdiction of the United States located at fa-
25 cilities owned by or contracted to the United
26 States or being transported to or from such fa-



1 cilities as it deems necessary in the interests of
2 the common defense and security; and

3 “(2) such of those employees of persons li-
4 censed or certified by the Commission (includ-
5 ing employees of contractors of licensees or cer-
6 tificate holders) engaged in the protection of
7 property of (A) facilities owned or operated by
8 a Commission licensee or certificate holder that
9 are designated by the Commission, or (B) prop-
10 erty of significance to the common defense and
11 security located at facilities owned or operated
12 by a Commission licensee or certificate holder
13 or being transported to or from such facilities;
14 to carry firearms while in the discharge of their offi-
15 cial duties. A person authorized to carry firearms
16 under this subsection may, while in the performance
17 of, and in connection with, official duties, make ar-
18 rests without warrant for any offense against the
19 United States committed in that person’s presence
20 or for any felony cognizable under the laws of the
21 United States if that person has reasonable grounds
22 to believe that the individual to be arrested has com-
23 mitted or is committing such felony. An employee of
24 a contractor or subcontractor or of a Commission li-
25 censee or certificate holder (or a contractor of a li-



1 censee or certificate holder) authorized to carry fire-
2 arms under this subsection may make such arrests
3 only when the individual to be arrested is within, or
4 in direct flight from, the area of such offense. A per-
5 son granted authority to make arrests by this sub-
6 section may exercise that authority only in the en-
7 forcement of laws regarding the property of the
8 United States in the custody of the Department of
9 Energy, the Nuclear Regulatory Commission, or a
10 contractor of the Department of Energy or Nuclear
11 Regulatory Commission or of a licensee or certificate
12 holder of the Commission, laws applicable to facili-
13 ties owned or operated by a Commission licensee or
14 certificate holder that are designated by the Com-
15 mission pursuant to this subsection and property of
16 significance to the common defense and security that
17 is in the custody of a licensee or certificate holder
18 or a contractor of a licensee or certificate holder of
19 the Commission, or any provision of this Act that
20 may subject an offender to a fine, imprisonment, or
21 both. The arrest authority conferred by this sub-
22 section is in addition to any arrest authority under
23 other laws. The Secretary and the Commission, with
24 the approval of the Attorney General, shall issue
25 guidelines to implement this subsection;”.



1 **SEC. 14027. UNAUTHORIZED INTRODUCTION OF DAN-**
2 **GEROUS WEAPONS.**

3 Section 229 a. of the Atomic Energy Act of 1954 (42
4 U.S.C. 2278a(a)) is amended by adding after “custody of
5 the Commission” the following: “or subject to its licensing
6 authority or to certification by the Commission under this
7 Act or any other Act”.

8 **SEC. 14028. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.**

9 Section 236 a. of the Atomic Energy Act of 1954 (42
10 U.S.C. 2284(a)) is amended to read as follows:

11 “a. Any person who intentionally and willfully de-
12 stroys or causes physical damage to, or who intentionally
13 and willfully attempts to destroy or cause physical damage
14 to—

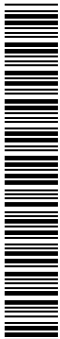
15 “(1) any production facility or utilization facil-
16 ity licensed under this Act;

17 “(2) any nuclear waste storage, treatment, or
18 disposal facility licensed under this Act;

19 “(3) any nuclear fuel for a utilization facility li-
20 censed under this Act or any spent nuclear fuel from
21 such a facility;

22 “(4) any uranium enrichment or nuclear fuel
23 fabrication facility licensed or certified by the Nu-
24 clear Regulatory Commission; or

25 “(5) any production, utilization, waste storage,
26 waste treatment, waste disposal, uranium enrich-



1 ment, or nuclear fuel fabrication facility subject to
2 licensing or certification under this Act during its
3 construction where the destruction or damage
4 caused or attempted to be caused could affect public
5 health and safety during the operation of the facil-
6 ity,

7 shall be fined not more than \$1,000,000 or imprisoned
8 for up to life in prison without parole, or both.”.

9 **SEC. 14029. COOPERATIVE RESEARCH AND DEVELOPMENT**
10 **AND SPECIAL DEMONSTRATION PROJECTS**
11 **FOR THE URANIUM MINING INDUSTRY.**

12 (a) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated to the Secretary of En-
14 ergy \$10,000,000 for each of fiscal years 2004, 2005, and
15 2006 for—

16 (1) cooperative, cost-shared agreements between
17 the Department of Energy and domestic uranium
18 producers to identify, test, and develop improved in
19 situ leaching mining technologies, including low-cost
20 environmental restoration technologies that may be
21 applied to sites after completion of in situ leaching
22 operations; and

23 (2) funding for competitively selected dem-
24 onstration projects with domestic uranium producers
25 relating to—



1 (A) enhanced production with minimal en-
2 vironmental impacts;
3 (B) restoration of well fields; and
4 (C) decommissioning and decontamination
5 activities.

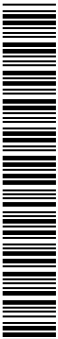
6 (b) DOMESTIC URANIUM PRODUCER.—For purposes
7 of this section, the term “domestic uranium producer” has
8 the meaning given that term in section 1018(4) of the En-
9 ergy Policy Act of 1992 (42 U.S.C. 2296b–7(4)), except
10 that the term shall not include any producer that has not
11 produced uranium from domestic reserves on or after July
12 30, 1998, in Colorado, Nebraska, Texas, Utah, or Wyo-
13 ming.

14 **SEC. 14030. URANIUM SALES.**

15 (a) RESTRICTIONS ON INVENTORY SALES.—Section
16 3112(d) of the USEC Privatization Act (42 U.S.C.
17 2297h–10(d)) is amended to read as follows:

18 “(d) INVENTORY SALES.—(1) In addition to the
19 transfers and sales authorized under subsections (b), (c),
20 and (e), the Secretary of Energy or the Secretary of the
21 Army may transfer or sell uranium subject to paragraph
22 (2).

23 “(2) Except as provided in subsections (b), (c), and
24 (e), no sale or transfer of uranium shall be made under



1 this subsection by the Secretary of Energy or the Sec-
2 retary of the Army unless—

3 “(A) the President determines that the material
4 is not necessary for national security needs;

5 “(B) the price paid to the appropriate Sec-
6 retary, if the transaction is a sale, will not be less
7 than the fair market value of the material; and

8 “(C) the sale or transfer to end users is made
9 pursuant to a contract of at least 3 years duration.

10 “(3) The Secretary of Energy shall not make any
11 transfer or sale of uranium under this subsection that
12 would cause the total amount of uranium transferred or
13 sold pursuant to this subsection that is delivered for con-
14 sumption by end users to exceed—

15 “(A) 3 million pounds of U_3O_8 equivalent in fis-
16 cal year 2004, 2005, 2006, 2007, 2008, or 2009;

17 “(B) 5 million pounds of U_3O_8 equivalent in
18 fiscal year 2010 or 2011;

19 “(C) 7 million pounds of U_3O_8 equivalent in fis-
20 cal year 2012; and

21 “(D) 10 million pounds of U_3O_8 equivalent in
22 fiscal year 2013 or any fiscal year thereafter.

23 “(4) For the purposes of this subsection, the recovery
24 of uranium from uranium bearing materials transferred
25 or sold by the Secretary of Energy or the Secretary of



1 the Army to the domestic uranium industry shall be the
2 preferred method of making uranium available. The recov-
3 ered uranium shall be counted against the annual max-
4 imum deliveries set for in this section, when such uranium
5 is sold to end users.”.

6 (b) TRANSFERS TO CORPORATION.—Section 3112 of
7 the USEC Privatization Act (42 U.S.C. 2297h–10) is fur-
8 ther amended by adding at the end the following new sub-
9 section:

10 “(g) TRANSFERS TO CORPORATION.—Notwith-
11 standing subsection (b)(2) and subsection (d)(2), the Sec-
12 retary may transfer up to 9,550 metric tons of uranium
13 to the Corporation to replace uranium that the Secretary
14 transferred to the Corporation on or about June 30, 1993,
15 April 20, 1998, and May 18, 1998, and that does not meet
16 commercial specifications.”.

17 (c) SERVICES.—Section 3112 of the USEC Privatiza-
18 tion Act (42 U.S.C. 2297h–10) is further amended by
19 adding at the end the following new subsection:

20 “(h) SERVICES.—(1) Notwithstanding any other pro-
21 vision of this section, if the Secretary determines that if
22 the Corporation has failed, or may fail, to perform any
23 obligation under the Agreement between the Department
24 of Energy and the Corporation dated June 17, 2002, and
25 as amended thereafter, which failure could result in termi-



1 nation of the Agreement, the Secretary shall notify the
2 Committee on Energy and Commerce of the House of
3 Representatives and the Committee on Energy and Nat-
4 ural Resources of the Senate, in such a manner that af-
5 fords the Committees an opportunity to comment, prior
6 to a determination by the Secretary whether termination,
7 waiver, or modification of the Agreement is required. The
8 Secretary is authorized to take such action as he deter-
9 mines necessary under the Agreement to terminate, waive,
10 or modify provisions of the Agreement to achieve its pur-
11 poses.

12 “(2) Notwithstanding any other provision of this sec-
13 tion, if the Secretary determines in accordance with Arti-
14 cle 2D of the Agreement between the Department of En-
15 ergy and the Corporation dated June 17, 2002, and as
16 amended thereafter, to transition operation of the Padu-
17 cah gaseous diffusion plant, the Secretary may provide
18 uranium enrichment services in a manner consistent with
19 Article 2D of such Agreement.”.

20 (d) REPORT.—Within 3 years after the date of enact-
21 ment of this Act, the Secretary shall report to the Con-
22 gress on the implementation of this section. The report
23 shall include a discussion of available excess uranium in-
24 ventories, all sales or transfers made by the Secretary of
25 Energy or the Secretary of the Army, the impact of such



1 sales or transfers on the domestic uranium industry, the
2 spot market uranium price, and the national security in-
3 terests of the United States, and any steps taken to reme-
4 diate any adverse impacts of such sales or transfers.

5 **SEC. 14031. MEDICAL ISOTOPE PRODUCTION.**

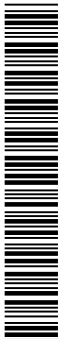
6 Section 134 of the Atomic Energy Act of 1954 (42
7 U.S.C. 2160d) is amended—

8 (1) by redesignating subsection b. as subsection
9 f.;

10 (2) by inserting after subsection a. the fol-
11 lowing:

12 “b. The Commission may issue a license authorizing
13 the export (including shipment to and use at intermediate
14 and ultimate consignees specified in the license) to a Re-
15 cipient Country of highly enriched uranium for medical
16 isotope production if, in addition to any other require-
17 ments of this Act, the Commission determines that—

18 “(1) a Recipient Country that supplies an as-
19 surance letter to the United States Government in
20 connection with the Commission’s consideration of
21 the export license application has informed the
22 United States Government that any intermediate
23 consignees and the ultimate consignee specified in
24 the application are required to use such highly en-



1 riched uranium solely to produce medical isotopes;
2 and

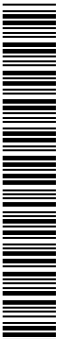
3 “(2) the highly enriched uranium for medical
4 isotope production will be irradiated only in a reac-
5 tor in a Recipient Country that—

6 “(A) uses an alternative nuclear reactor
7 fuel; or

8 “(B) is the subject of an agreement with
9 the United States Government to convert to an
10 alternative nuclear reactor fuel when such fuel
11 can be used in that reactor.

12 “c. Applications to the Commission for licenses au-
13 thorizing the export to a Recipient Country of highly en-
14 riched uranium for medical isotope production shall be
15 subject to subsection b., and subsection a. shall not be ap-
16 plicable to such exports.

17 “d. The Commission is authorized to specify, by rule-
18 making or decision in connection with an export license
19 application, that a country other than a Recipient Country
20 may receive exports of highly enriched uranium for med-
21 ical isotope production in accordance with the same cri-
22 teria established by subsection b. for exports to a Reci-
23 ent Country, upon the Commission’s finding that such ad-
24 ditional country is a party to the Treaty on the Non-
25 proliferation of Nuclear Weapons and the Convention on



1 the Physical Protection of Nuclear Material and will re-
2 ceive such highly enriched uranium pursuant to an agree-
3 ment with the United States concerning peaceful uses of
4 nuclear energy.

5 “e. The Commission shall review the adequacy of
6 physical protection requirements that are currently appli-
7 cable to the transportation of highly enriched uranium for
8 medical isotope production. If it determines that addi-
9 tional physical protection measures are necessary, includ-
10 ing any limits that the Commission finds are necessary
11 on the quantity of highly enriched uranium contained in
12 a single shipment for medical isotope production, the Com-
13 mission shall impose such requirements, as license condi-
14 tions or through other appropriate means.”; and

15 (3) in subsection f., as so redesignated by para-
16 graph (1) of this section—

17 (A) by striking “and” at the end of para-
18 graph (2);

19 (B) by striking the period at the end of
20 paragraph (3)(B) and inserting a semicolon;
21 and

22 (C) by adding at the end the following:

23 “(4) the term ‘medical isotopes’ means radio-
24 active isotopes, including Molybdenum 99, Iodine
25 131, and Xenon 133, that are used to produce radio-



1 pharmaceuticals for diagnostic or therapeutic proce-
2 dures on patients, or in connection with research
3 and development of radiopharmaceuticals;

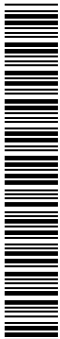
4 “(5) the term ‘highly enriched uranium for
5 medical isotope production’ means highly enriched
6 uranium contained in, or for use in, targets to be ir-
7 radiated for the sole purpose of producing medical
8 isotopes;

9 “(6) the term ‘radiopharmaceuticals’ means ra-
10 dioactive isotopes containing byproduct material
11 combined with chemical or biological material that
12 are designed to accumulate temporarily in a part of
13 the body, for therapeutic purposes or for enabling
14 the production of a useful image of the appropriate
15 body organ or function for use in diagnosis of med-
16 ical conditions; and

17 “(7) the term ‘Recipient Country’ means Can-
18 ada, Belgium, France, Germany, and the Nether-
19 lands.”.

20 **SEC. 14032. HIGHLY ENRICHED URANIUM DIVERSION**
21 **THREAT REPORT.**

22 Section 307 of the Energy Reorganization Act of
23 1974 (42 U.S.C. 5877) is amended by adding at the end
24 the following new subsection:



1 “(d) Not later than 6 months after the date of the
2 enactment of this Act, the Secretary of Energy shall trans-
3 mit to the Congress a report with recommendations on re-
4 ducing the threat resulting from the theft or diversion of
5 highly enriched uranium. Such report shall address—

6 “(1) monitoring of highly enriched uranium
7 supplies at any commercial companies who have ac-
8 cess to substantial amounts of highly enriched ura-
9 nium;

10 “(2) assistance to companies described in para-
11 graph (1) with security and personnel checks;

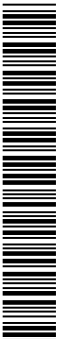
12 “(3) acceleration of the process of blending
13 down excess highly enriched uranium into low-en-
14 riched uranium;

15 “(4) purchasing highly enriched uranium (ex-
16 cept for production of medical isotopes);

17 “(5) paying the cost of shipping highly enriched
18 uranium;

19 “(6) accelerating the conversion of commercial
20 research reactors and energy reactors to the use of
21 low-enriched uranium fuel where they now use high-
22 ly enriched uranium fuel; and

23 “(7) minimizing, and encouraging transparency
24 in, the further enrichment of low-enriched uranium
25 to highly enriched uranium.”.



1 **SEC. 14033. WHISTLEBLOWER PROTECTION.**

2 (a) DEFINITION OF EMPLOYER.—Section 211(a)(2)
3 of the Energy Reorganization Act of 1974 (42 U.S.C.
4 5851(a)(2)) is amended—

5 (1) by striking “and” at the end of subpara-
6 graph (C);

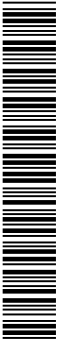
7 (2) in subparagraph (D), by striking “that is
8 indemnified” and all that follows through “12344.”
9 and inserting “or the Commission; and”; and

10 (3) by adding at the end the following new sub-
11 paragraph:

12 “(E) the Department of Energy and the Com-
13 mission.”.

14 (b) DE NOVO REVIEW.—Subsection (b) of such sec-
15 tion 211 is amended by adding at the end the following
16 new paragraph:

17 “(4) If the Secretary has not issued a final decision
18 within 180 days after the filing of a complaint under para-
19 graph (1), and there is no showing that such delay is due
20 to the bad faith of the claimant, the claimant may bring
21 an action at law or equity for de novo review in the appro-
22 priate district court of the United States, which shall have
23 jurisdiction over such an action without regard to the
24 amount in controversy.”.



1 **SEC. 14034. PREVENTING THE MISUSE OF NUCLEAR MATE-**
2 **RIALS AND TECHNOLOGY.**

3 (a) AMENDMENT.—Chapter 14 of the Atomic Energy
4 Act of 1954 (42 U.S.C. 2201 et seq.) is amended by add-
5 ing at the end the following new section:

6 “SEC. 170D. PREVENTING THE MISUSE OF NU-
7 CLEAR MATERIALS AND TECHNOLOGY.—

8 “a. In order to successfully promote the development
9 of nuclear energy as a safe and reliable source of electrical
10 energy, it is the policy of the United States to prevent
11 any nuclear materials, technology, components, sub-
12 stances, technical information, or related goods or services
13 from being misused or diverted from peaceful nuclear en-
14 ergy purposes.

15 “b. In order to further advance the policy set forth
16 in subsection a., notwithstanding any other provision of
17 law, no Federal agency shall issue any license, approval,
18 or authorization for the export or reexport, or the transfer
19 or retransfer, either directly or indirectly, to any country
20 whose government has been identified by the Secretary of
21 State as engaged in state sponsorship of terrorist activities
22 (specifically including any country the government of
23 which, as of September 11, 2001, had been determined
24 by the Secretary of State under section 620A(a) of the
25 Foreign Assistance Act of 1961, section 6(j)(1) of the Ex-
26 port Administration Act of 1979, or section 40(d) of the



1 Arms Export Control Act to have repeatedly provided sup-
2 port for acts of international terrorism) of—

3 “(1) any special nuclear material or byproduct
4 material;

5 “(2) any nuclear production or utilization facili-
6 ties; or

7 “(3) any components, technologies, substances,
8 technical information, or related goods or services
9 used (or which could be used) in a nuclear produc-
10 tion or utilization facility.

11 “c. Any license, approval, or authorization described
12 in subsection b. made prior to the date of enactment of
13 this section is hereby revoked.”.

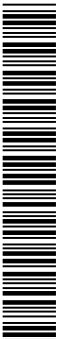
14 (b) TABLE OF CONTENTS AMENDMENT.—The table
15 of contents of such chapter 14 is amended by adding at
16 the end the following item:

“Sec. 170D. Preventing the misuse of nuclear materials and technology.”.

17 **SEC. 14035. LIMITATION ON LEGAL FEE REIMBURSEMENT.**

18 The Department of Energy shall not, except as re-
19 quired under a contract entered into before the date of
20 enactment of this Act, reimburse any contractor or sub-
21 contractor of the Department for any legal fees or ex-
22 penses incurred with respect to a complaint subsequent
23 to—

24 (1) an adverse determination on the merits with
25 respect to such complaint against the contractor or



1 subcontractor by the Director of the Department of
2 Energy's Office of Hearings and Appeals pursuant
3 to section 708 of title 10, Code of Federal Regula-
4 tions, or by a Department of Labor Administrative
5 Law Judge pursuant to section 211 of the Energy
6 Reorganization Act of 1974 (42 U.S.C. 5851); or

7 (2) an adverse final judgment by any State or
8 Federal court with respect to such complaint against
9 the contractor or subcontractor for wrongful termi-
10 nation or retaliation due to the making of disclo-
11 sures protected under chapter 12 of title 5, United
12 States Code, section 211 of the Energy Reorganiza-
13 tion Act of 1974 (42 U.S.C. 5851), or any com-
14 parable State law,

15 unless the adverse determination or final judgment is re-
16 versed upon further administrative or judicial review.

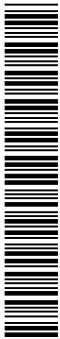
17 **TITLE V—VEHICLES AND FUELS**

18 **Subtitle A—Energy Policy Act**

19 **Amendments**

20 **SEC. 15011. CREDIT FOR SUBSTANTIAL CONTRIBUTION TO-** 21 **WARD NONCOVERED FLEETS.**

22 Section 508 of the Energy Policy Act of 1992 (42
23 U.S.C. 13258) is amended by adding at the end the fol-
24 lowing new subsection:



1 “(e) CREDIT FOR SUBSTANTIAL CONTRIBUTION TO-
2 WARD USE OF DEDICATED VEHICLES IN NONCOVERED
3 FLEETS.—

4 “(1) DEFINITIONS.—In this subsection:

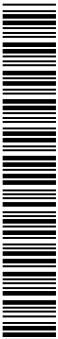
5 “(A) MEDIUM OR HEAVY DUTY VEHI-
6 CLE.—The term ‘medium or heavy duty vehicle’
7 means a dedicated vehicle that—

8 “(i) in the case of a medium duty ve-
9 hicle, has a gross vehicle weight rating of
10 more than 8,500 pounds but not more
11 than 14,000 pounds; or

12 “(ii) in the case of a heavy duty vehi-
13 cle, has a gross vehicle weight rating of
14 more than 14,000 pounds.

15 “(B) SUBSTANTIAL CONTRIBUTION.—The
16 term ‘substantial contribution’ means not less
17 than \$15,000 in cash or in kind services, as de-
18 termined by the Secretary.

19 “(2) ALLOCATION OF CREDITS.—The Secretary
20 shall allocate a credit to a fleet or covered person
21 under this section if the fleet or person makes a sub-
22 stantial contribution toward the acquisition and use
23 of dedicated vehicles or neighborhood electric vehi-
24 cles by a person that owns, operates, leases, or oth-



1 erwise controls a fleet that is not covered by this
2 title.

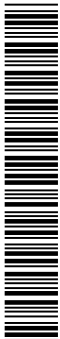
3 “(3) MULTIPLE CREDITS FOR MEDIUM AND
4 HEAVY DUTY VEHICLES.—The Secretary shall issue
5 2 full credits to a fleet or covered person under this
6 section if the fleet or person makes a substantial
7 contribution toward the acquisition and use of a me-
8 dium or heavy duty vehicle.

9 “(4) USE OF CREDITS.—At the request of a
10 fleet or covered person allocated a credit under this
11 subsection, the Secretary shall, for the year in which
12 the acquisition of the dedicated vehicle or neighbor-
13 hood electric vehicle is made, treat that credit as the
14 acquisition of 1 alternative fueled vehicle that the
15 fleet or covered person is required to acquire under
16 this title.

17 “(5) LIMITATION.—Except as provided in para-
18 graph (3), no more than 1 credit shall be allocated
19 under this subsection for each vehicle.”.

20 **SEC. 15012. CREDIT FOR ALTERNATIVE FUEL INFRASTRUC-**
21 **TURE.**

22 Section 508 of the Energy Policy Act of 1992 (42
23 U.S.C. 13258), as amended by this division, is further
24 amended by adding at the end the following new sub-
25 section:



1 “(f) CREDIT FOR INVESTMENT IN ALTERNATIVE
2 FUEL INFRASTRUCTURE.—

3 “(1) DEFINITION.—In this subsection, the term
4 ‘qualifying infrastructure’ means—

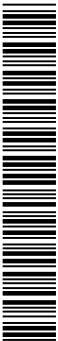
5 “(A) equipment required to refuel or re-
6 charge alternative fueled vehicles;

7 “(B) facilities or equipment required to
8 maintain, repair, or operate alternative fueled
9 vehicles;

10 “(C) training programs, educational mate-
11 rials, or other activities necessary to provide in-
12 formation regarding the operation, mainte-
13 nance, or benefits associated with alternative
14 fueled vehicles; and

15 “(D) such other activities the Secretary
16 considers to constitute an appropriate expendi-
17 ture in support of the operation, maintenance,
18 or further widespread adoption of or utilization
19 of alternative fueled vehicles.

20 “(2) ALLOCATION OF CREDITS.—The Secretary
21 shall allocate a credit to a fleet or covered person
22 under this section for investment in qualifying infra-
23 structure if the qualifying infrastructure is open to
24 the general public during regular business hours.



1 “(3) AMOUNT.—For the purposes of credits
2 under this subsection—

3 “(A) 1 credit shall be equal to a minimum
4 investment of \$25,000 in cash or in kind serv-
5 ices, as determined by the Secretary; and

6 “(B) except in the case of a Federal or
7 State fleet, no part of the investment may be
8 provided by Federal or State funds.

9 “(4) USE OF CREDITS.—At the request of a
10 fleet or covered person allocated a credit under this
11 subsection, the Secretary shall, for the year in which
12 the investment is made, treat that credit as the ac-
13 quisition of 1 alternative fueled vehicle that the fleet
14 or covered person is required to acquire under this
15 title.”.

16 **SEC. 15013. ALTERNATIVE FUELED VEHICLE REPORT.**

17 (a) DEFINITIONS.—In this section:

18 (1) ALTERNATIVE FUEL.—The term “alter-
19 native fuel” has the meaning given the term in sec-
20 tion 301 of the Energy Policy Act of 1992 (42
21 U.S.C. 13211).

22 (2) ALTERNATIVE FUELED VEHICLE.—The
23 term “alternative fueled vehicle” has the meaning
24 given the term in section 301 of the Energy Policy
25 Act of 1992 (42 U.S.C. 13211).



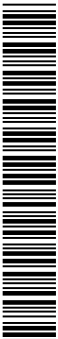
1 (3) LIGHT DUTY MOTOR VEHICLE.—The term
2 “light duty motor vehicle” has the meaning given
3 the term in section 301 of the Energy Policy Act of
4 1992 (42 U.S.C. 13211).

5 (4) SECRETARY.—The term “Secretary” means
6 the Secretary of Energy.

7 (b) REPORT.—Not later than 1 year after the date
8 of enactment of this Act, the Secretary shall submit to
9 Congress a report on the effect that titles III, IV, and
10 V of the Energy Policy Act of 1992 have had on the devel-
11 opment of alternative fueled vehicle technology, the avail-
12 ability of alternative fueled vehicles in the market, the cost
13 of light duty motor vehicles that are alternative fueled ve-
14 hicles, and the availability, cost, and use of alternative
15 fuels and biodiesel. Such report shall include any rec-
16 ommendations of the Secretary for legislation concerning
17 the alternative fueled vehicle requirements under the En-
18 ergy Policy Act of 1992, and shall examine, discuss, and
19 determine the following:

20 (1) The number of alternative fueled vehicles
21 acquired by fleets or covered persons required to ac-
22 quire alternative fueled vehicles.

23 (2) The extent to which fleets subject to alter-
24 native fueled vehicle acquisition requirements have
25 met those requirements through the use of fuel mix-



1 tures that contain at least 20 percent biodiesel pur-
2 suant to section 312 of the Energy Policy Act of
3 1992 (42 U.S.C. 13220).

4 (3) The amount of alternative fuel used in al-
5 ternative fueled vehicles acquired by fleets required
6 to acquire alternative fueled vehicles under the En-
7 ergy Policy Act of 1992.

8 (4) The amount of petroleum displaced by the
9 use of alternative fueled vehicles acquired by fleets
10 or covered persons.

11 (5) The cost of compliance with vehicle acquisi-
12 tion requirements under the Energy Policy Act of
13 1992, and the benefits of using such fuel and vehi-
14 cles.

15 (6) Projections of the amount of biodiesel, the
16 number of alternative fueled vehicles, and the
17 amount of alternative fuel that will be used over the
18 next decade by fleets required to acquire alternative
19 fueled vehicles under the Energy Policy Act of 1992.

20 (7) The existence of any obstacles to increased
21 use of alternative fuel and biodiesel in vehicles ac-
22 quired or maintained by fleets required to acquire al-
23 ternative fueled vehicles under the Energy Policy
24 Act of 1992, and the benefits of using such fuel and
25 vehicles.



1 **SEC. 15014. ALLOCATION OF INCREMENTAL COSTS.**

2 Section 303(c) of the Energy Policy Act of 1992 (42
3 U.S.C. 13212(c)) is amended by striking “may” and in-
4 serting “shall”.

5 **Subtitle B—Advanced Vehicles**

6 **SEC. 15021. DEFINITIONS.**

7 For the purposes of this subtitle, the following defini-
8 tions apply:

9 (1) **ALTERNATIVE FUELED VEHICLE.**—The
10 term “alternative fueled vehicle” means a vehicle
11 propelled solely on an alternative fuel as defined in
12 section 301 of the Energy Policy Act of 1992 (42
13 U.S.C. 13211), except the term does not include any
14 vehicle that the Secretary determines, by rule, does
15 not yield substantial environmental benefits over a
16 vehicle operating solely on gasoline or diesel derived
17 from fossil fuels.

18 (2) **FUEL CELL VEHICLE.**—The term “fuel cell
19 vehicle” means a vehicle propelled by an electric
20 motor powered by a fuel cell system that converts
21 chemical energy into electricity by combining oxygen
22 (from air) with hydrogen fuel that is stored on the
23 vehicle or is produced onboard by reformation of a
24 hydrocarbon fuel. Such fuel cell system may or may
25 not include the use of auxiliary energy storage sys-
26 tems to enhance vehicle performance.



1 (3) HYBRID VEHICLE.—The term “hybrid vehi-
2 cle” means a medium or heavy duty vehicle propelled
3 by an internal combustion engine or heat engine
4 using any combustible fuel and an onboard recharge-
5 able energy storage device.

6 (4) NEIGHBORHOOD ELECTRIC VEHICLE.—The
7 term “neighborhood electric vehicle” means a motor
8 vehicle capable of traveling at speeds of 25 miles per
9 hour that is—

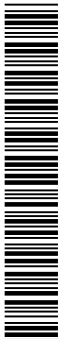
10 (A) a low-speed vehicle, as such term is de-
11 fined in section 571.3(b) of title 49, Code of
12 Federal Regulations;

13 (B) a zero-emission vehicle, as such term is
14 defined in section 86.1702–99 of title 40, Code
15 of Federal Regulations; and

16 (C) otherwise lawful to use on local streets.

17 (5) PILOT PROGRAM.—The term “pilot pro-
18 gram” means the competitive grant program estab-
19 lished under section 15022.

20 (6) ULTRA-LOW SULFUR DIESEL VEHICLE.—
21 The term “ultra-low sulfur diesel vehicle” means a
22 vehicle manufactured in model years 2002 through
23 2006 powered by a heavy-duty diesel engine that—



1 (A) is fueled by diesel fuel which contains
2 sulfur at not more than 15 parts per million;
3 and

4 (B) emits not more than the lesser of—

5 (i) for vehicles manufactured in—

6 (I) model years 2002 and 2003,
7 3.0 grams per brake horsepower-hour
8 of oxides of nitrogen and .01 grams
9 per brake horsepower-hour of particu-
10 late matter; and

11 (II) model years 2004 through
12 2006, 2.5 grams per brake horse-
13 power-hour of nonmethane hydro-
14 carbons and oxides of nitrogen and
15 .01 grams per brake horsepower-hour
16 of particulate matter; or

17 (ii) the emissions of nonmethane hy-
18 drocarbons, oxides of nitrogen, and partic-
19 ulate matter of the best performing tech-
20 nology of ultra-low sulfur diesel vehicles of
21 the same class and application that are
22 commercially available.

23 **SEC. 15022. PILOT PROGRAM.**

24 (a) ESTABLISHMENT.—The Secretary shall establish
25 a competitive grant pilot program, to be administered



1 through the Clean Cities Program of the Department of
2 Energy, to provide not more than 10 geographically dis-
3 persed project grants to State governments, local govern-
4 ments, or metropolitan transportation authorities to carry
5 out a project or projects for the purposes described in sub-
6 section (b).

7 (b) GRANT PURPOSES.—Grants under this section
8 may be used for the following purposes:

9 (1) The acquisition of alternative fueled vehicles
10 or fuel cell vehicles, including—

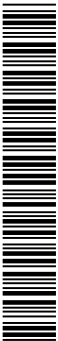
11 (A) passenger vehicles including neighbor-
12 hood electric vehicles; and

13 (B) motorized two-wheel bicycles, scooters,
14 or other vehicles for use by law enforcement
15 personnel or other State or local government or
16 metropolitan transportation authority employ-
17 ees.

18 (2) The acquisition of alternative fueled vehi-
19 cles, hybrid vehicles, or fuel cell vehicles, including—

20 (A) buses used for public transportation or
21 transportation to and from schools;

22 (B) delivery vehicles for goods or services;
23 and



1 (C) ground support vehicles at public air-
2 ports, including vehicles to carry baggage or
3 push airplanes away from terminal gates.

4 (3) The acquisition of ultra-low sulfur diesel ve-
5 hicles.

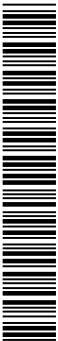
6 (4) Infrastructure necessary to directly support
7 an alternative fueled vehicle, fuel cell vehicle, or hy-
8 brid vehicle project funded by the grant, including
9 fueling and other support equipment.

10 (5) Operation and maintenance of vehicles, in-
11 frastructure, and equipment acquired as part of a
12 project funded by the grant.

13 (c) APPLICATIONS.—

14 (1) REQUIREMENTS.—The Secretary shall issue
15 requirements for applying for grants under the pilot
16 program. At a minimum, the Secretary shall require
17 that applications be submitted by the head of a
18 State or local government or a metropolitan trans-
19 portation authority, or any combination thereof, and
20 a registered participant in the Clean Cities Program
21 of the Department of Energy, and shall include—

22 (A) a description of the projects proposed
23 in the application, including how they meet the
24 requirements of this subtitle;



1 (B) an estimate of the ridership or degree
2 of use of the projects proposed in the applica-
3 tion;

4 (C) an estimate of the air pollution emis-
5 sions reduced and fossil fuel displaced as a re-
6 sult of the projects proposed in the application,
7 and a plan to collect and disseminate environ-
8 mental data, related to the projects to be fund-
9 ed under the grant, over the life of the projects;

10 (D) a description of how the projects pro-
11 posed in the application will be sustainable
12 without Federal assistance after the completion
13 of the term of the grant;

14 (E) a complete description of the costs of
15 each project proposed in the application, includ-
16 ing acquisition, construction, operation, and
17 maintenance costs over the expected life of the
18 project;

19 (F) a description of which costs of the
20 projects proposed in the application will be sup-
21 ported by Federal assistance under this subtitle;
22 and

23 (G) documentation to the satisfaction of
24 the Secretary that diesel fuel containing sulfur
25 at not more than 15 parts per million is avail-



1 able for carrying out the projects, and a com-
2 mitment by the applicant to use such fuel in
3 carrying out the projects.

4 (2) PARTNERS.—An applicant under paragraph
5 (1) may carry out projects under the pilot program
6 in partnership with public and private entities.

7 (d) SELECTION CRITERIA.—In evaluating applica-
8 tions under the pilot program, the Secretary shall consider
9 each applicant's previous experience with similar projects
10 and shall give priority consideration to applications that—

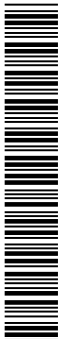
11 (1) are most likely to maximize protection of
12 the environment;

13 (2) demonstrate the greatest commitment on
14 the part of the applicant to ensure funding for the
15 proposed projects and the greatest likelihood that
16 each project proposed in the application will be
17 maintained or expanded after Federal assistance
18 under this subtitle is completed; and

19 (3) exceed the minimum requirements of sub-
20 section (c)(1)(A).

21 (e) PILOT PROJECT REQUIREMENTS.—

22 (1) MAXIMUM AMOUNT.—The Secretary shall
23 not provide more than \$20,000,000 in Federal as-
24 sistance under the pilot program to any applicant.



1 (2) COST SHARING.—The Secretary shall not
2 provide more than 50 percent of the cost, incurred
3 during the period of the grant, of any project under
4 the pilot program.

5 (3) MAXIMUM PERIOD OF GRANTS.—The Sec-
6 retary shall not fund any applicant under the pilot
7 program for more than 5 years.

8 (4) DEPLOYMENT AND DISTRIBUTION.—The
9 Secretary shall seek to the maximum extent prac-
10 ticable to ensure a broad geographic distribution of
11 project sites.

12 (5) TRANSFER OF INFORMATION AND KNOWL-
13 EDGE.—The Secretary shall establish mechanisms to
14 ensure that the information and knowledge gained
15 by participants in the pilot program are transferred
16 among the pilot program participants and to other
17 interested parties, including other applicants that
18 submitted applications.

19 (f) SCHEDULE.—

20 (1) PUBLICATION.—Not later than 3 months
21 after the date of the enactment of this Act, the Sec-
22 retary shall publish in the Federal Register, Com-
23 merce Business Daily, and elsewhere as appropriate,
24 a request for applications to undertake projects



1 under the pilot program. Applications shall be due
2 within 6 months of the publication of the notice.

3 (2) SELECTION.—Not later than 6 months after
4 the date by which applications for grants are due,
5 the Secretary shall select by competitive, peer review
6 all applications for projects to be awarded a grant
7 under the pilot program.

8 (g) LIMIT ON FUNDING.—The Secretary shall pro-
9 vide not less than 20 percent and not more than 25 per-
10 cent of the grant funding made available under this sec-
11 tion for the acquisition of ultra-low sulfur diesel vehicles.

12 **SEC. 15023. REPORTS TO CONGRESS.**

13 (a) INITIAL REPORT.—Not later than 2 months after
14 the date grants are awarded under this subtitle, the Sec-
15 retary shall transmit to the Congress a report
16 containing—

17 (1) an identification of the grant recipients and
18 a description of the projects to be funded;

19 (2) an identification of other applicants that
20 submitted applications for the pilot program; and

21 (3) a description of the mechanisms used by the
22 Secretary to ensure that the information and knowl-
23 edge gained by participants in the pilot program are
24 transferred among the pilot program participants



1 and to other interested parties, including other ap-
2 plicants that submitted applications.

3 (b) EVALUATION.—Not later than 3 years after the
4 date of the enactment of this Act, and annually thereafter
5 until the pilot program ends, the Secretary shall transmit
6 to the Congress a report containing an evaluation of the
7 effectiveness of the pilot program, including an assessment
8 of the benefits to the environment derived from the
9 projects included in the pilot program as well as an esti-
10 mate of the potential benefits to the environment to be
11 derived from widespread application of alternative fueled
12 vehicles and ultra-low sulfur diesel vehicles.

13 **SEC. 15024. AUTHORIZATION OF APPROPRIATIONS.**

14 There are authorized to be appropriated to the Sec-
15 retary \$200,000,000 to carry out this subtitle, to remain
16 available until expended.

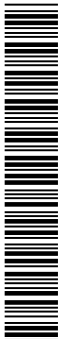
17 **Subtitle C—Hydrogen Fuel Cell**
18 **Heavy-Duty Vehicles**

19 **SEC. 15031. DEFINITION.**

20 For the purposes of this subtitle, the term “advanced
21 vehicle technologies program” means the program created
22 pursuant to section 5506 of title 49, United States Code.

23 **SEC. 15032. FINDINGS.**

24 The Congress makes the following findings:



1 (1) The Department of Energy and the Depart-
2 ment of Transportation jointly developed the consor-
3 tium-based advanced vehicle technologies program to
4 develop energy efficient and clean heavy-duty vehi-
5 cles in 1998.

6 (2) The majority of clean fuel vehicles in oper-
7 ation today are transit buses.

8 (3) Hydrogen fuel cell heavy-duty vehicle bus
9 deployments can most appropriately advance hydro-
10 gen fuel cell technology development due to central-
11 ized refueling, stable duty cycles, and fixed routes.

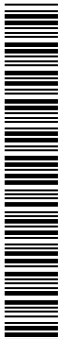
12 (4) Hydrogen fuel cell heavy-duty vehicle bus
13 deployments are the most effective manner in which
14 to advance technology developments for public
15 awareness, consumption, and acceptance.

16 **SEC. 15033. HYDROGEN FUEL CELL BUSES.**

17 The Secretary of Energy, through the advanced vehi-
18 cle technologies program, in coordination with the Sec-
19 retary of Transportation, shall advance the development
20 of fuel cell bus technologies by providing funding for 4
21 demonstration sites that—

22 (1) have or will soon have hydrogen infrastruc-
23 ture for fuel cell bus operation; and

24 (2) are operated by entities with experience in
25 the development of fuel cell bus technologies,



1 to enable the widespread utilization of fuel cell buses. Such
2 demonstrations shall address the reliability of fuel cell
3 heavy-duty vehicles, expense, infrastructure, containment,
4 storage, safety, training, and other issues.

5 **SEC. 15034. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated to the Sec-
7 retary of Energy \$10,000,000 for each of the fiscal years
8 2004 through 2008 for carrying out this subtitle.

9 **Subtitle D—Miscellaneous**

10 **SEC. 15041. RAILROAD EFFICIENCY.**

11 (a) ESTABLISHMENT.—The Secretary shall, in con-
12 junction with the Secretary of Transportation and the Ad-
13 ministrator of the Environmental Protection Agency, es-
14 tablish a public-private research partnership involving the
15 Federal Government, the railroad industry, locomotive
16 manufacturers and equipment suppliers, and the research
17 facility owned by the Federal Railroad Administration and
18 operated by contract. The goal of the research partnership
19 shall include developing and demonstrating locomotive
20 technologies that increase fuel economy, reduce emissions,
21 and lower costs.

22 (b) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to carry out the require-
24 ments of this section \$25,000,000 for fiscal year 2004,



1 \$30,000,000 for fiscal year 2005, and \$35,000,000 for fis-
2 cal year 2006.

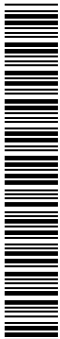
3 **SEC. 15042. MOBILE EMISSION REDUCTIONS TRADING AND**
4 **CREDITING.**

5 Within 180 days after the date of enactment of this
6 Act, the Administrator of the Environmental Protection
7 Agency shall provide a report to the Congress on the Envi-
8 ronmental Protection Agency's experience with the trading
9 of mobile source emission reduction credits for use by own-
10 ers and operators of stationary source emission sources
11 to meet emission offset requirements within a nonattain-
12 ment area. The report shall describe—

13 (1) projects approved by the Environmental
14 Protection Agency that include the trading of mobile
15 source emission reduction credits for use by sta-
16 tionary sources in complying with offset require-
17 ments, including project and stationary sources loca-
18 tion, volumes of emissions offset and traded, a de-
19 scription of the sources of mobile emission reduction
20 credits, and, if available, the cost of the credits;

21 (2) the significant issues identified by the Envi-
22 ronmental Protection Agency in its consideration
23 and approval of trading in such projects;

24 (3) the requirements for monitoring and assess-
25 ing the air quality benefits of any approved project;



1 (4) the statutory authority upon which the En-
2 vironmental Protection Agency has based approval
3 of such projects;

4 (5) an evaluation of how the resolution of issues
5 in approved projects could be utilized in other
6 projects; and

7 (6) any other issues the Environmental Protec-
8 tion Agency considers relevant to the trading and
9 generation of mobile source emission reduction cred-
10 its for use by stationary sources or for other pur-
11 poses.

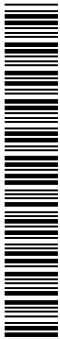
12 **SEC. 15043. IDLE REDUCTION TECHNOLOGIES.**

13 (a) DEFINITIONS.—For purposes of this section:

14 (1) IDLE REDUCTION TECHNOLOGY.—The term
15 “idle reduction technology” means a device or sys-
16 tem of devices utilized to reduce long-duration idling
17 of a heavy-duty vehicle.

18 (2) HEAVY-DUTY VEHICLE.—The term “heavy-
19 duty vehicle” means a vehicle that has a gross vehi-
20 cle weight rating greater than 26,000 pounds and is
21 powered by a diesel engine.

22 (3) LONG-DURATION IDLING.—The term “long-
23 duration idling” means the operation of a main drive
24 engine, for a period greater than 15 consecutive
25 minutes, where the main drive engine is not engaged



1 in gear. Such term does not apply to routine stop-
2 pages associated with traffic movement or conges-
3 tion.

4 (b) STUDIES OF THE BENEFITS OF IDLE REDUCTION
5 TECHNOLOGIES.—

6 (1) POTENTIAL FUEL SAVINGS.—Not later than
7 90 days after the date of enactment of this section,
8 the Secretary of Energy shall, in consultation with
9 the Secretary of Transportation, commence a study
10 to analyze the potential fuel savings resulting from
11 use of idle reduction technologies.

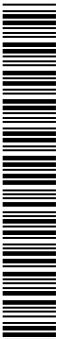
12 (2) RECOGNITION OF BENEFITS OF ADVANCED
13 IDLE REDUCTION TECHNOLOGIES.—Within 90 days
14 after the date of enactment of this section, the Ad-
15 ministrator of the Environmental Protection Agency
16 is directed to commence a review of the Agency's
17 mobile source air emissions models used under the
18 Clean Air Act to determine whether such models ac-
19 curately reflect the emissions resulting from long-du-
20 ration idling of heavy-duty trucks and other vehicles
21 and engines, and shall update those models as the
22 Administrator deems appropriate. Additionally, with-
23 in 90 days after the date of enactment of this sec-
24 tion, the Administrator shall commence a review as
25 to the appropriate emissions reductions credit that



1 should be allotted under the Clean Air Act for the
2 use of advanced idle reduction technologies, and
3 whether such credits should be subject to an emis-
4 sions trading system, and shall revise Agency regula-
5 tions and guidance as the Administrator deems ap-
6 propriate.

7 (3) IDLING TECHNOLOGIES.—Not later than
8 180 days after the date of the enactment of this sec-
9 tion, the Secretary of Energy, in consultation with
10 the Secretary of Transportation and the Adminis-
11 trator of the Environmental Protection Agency, shall
12 commence a study to analyze where heavy duty and
13 other vehicles stop for long duration idling.

14 (c) VEHICLE WEIGHT EXEMPTION.—Section 127(a)
15 of title 23, United States Code, is amended by adding at
16 the end the following: “In instances where an idle reduc-
17 tion technology is installed onboard a motor vehicle, the
18 maximum gross vehicle weight limit and the axle weight
19 limit for any motor vehicle equipped with an idling reduc-
20 tion system may be increased by an amount necessary to
21 compensate for the additional weight of the idling reduc-
22 tion system, except that the weight limit increase shall be
23 no greater than 400 pounds.”.



1 **SEC. 15044. STUDY OF AVIATION FUEL CONSERVATION AND**
2 **EMISSIONS.**

3 The Administrator of the Federal Aviation Adminis-
4 tration and the Administrator of the Environmental Pro-
5 tection Agency shall jointly commence a study within 60
6 days after the date of enactment of this Act to identify
7 the impact of aircraft emissions on air quality in non-
8 attainment areas and to identify ways to promote fuel con-
9 servation measures for aviation, enhance fuel efficiency,
10 and reduce emissions. As part of this study, the Adminis-
11 trator of the Federal Aviation Administration and the Ad-
12 ministrator of the Environmental Protection Agency shall
13 focus on how air traffic management inefficiencies, such
14 as aircraft idling at airports, result in unnecessary fuel
15 burn and air emissions. Within 180 days after the com-
16 mencement of the study, the Administrator of the Federal
17 Aviation Administration and the Administrator of the En-
18 vironmental Protection Agency shall submit a report to
19 the Committees on Energy and Commerce and Transpor-
20 tation and Infrastructure of the House of Representatives
21 and the Committees on Environment and Public Works
22 and Commerce, Science, and Transportation of the Senate
23 containing the results of the study and recommendations
24 as to how unnecessary fuel use and emissions affecting
25 air quality may be reduced, without impacting safety and
26 security, increasing individual aircraft noise, and taking



1 into account all aircraft emissions and their relative im-
2 pact on human health.

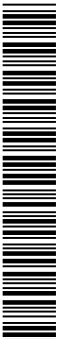
3 **SEC. 15045. DIESEL FUELED VEHICLES.**

4 (a) DIESEL COMBUSTION AND AFTER TREATMENT
5 TECHNOLOGIES.—The Secretary of Energy shall accel-
6 erate efforts to improve diesel combustion and after-treat-
7 ment technologies for use in diesel fueled motor vehicles.

8 (b) GOAL.—

9 (1) COMPLIANCE WITH TIER 2 EMISSION
10 STANDARDS BY 2010.—The Secretary shall carry out
11 subsection (a) with a view to developing and dem-
12 onstrating diesel technology meeting tier 2 emission
13 standards not later than 2010.

14 (2) TIER 2 EMISSION STANDARDS DEFINED.—
15 In this subsection, the term “tier 2 emission stand-
16 ards” means the motor vehicle emission standards
17 promulgated by the Administrator of the Environ-
18 mental Protection Agency on February 10, 2000,
19 under sections 202 and 211 of the Clean Air Act to
20 apply to passenger cars, light trucks, and larger pas-
21 senger vehicles of model years after the 2003 vehicle
22 model year.



1 **SEC. 15046. WAIVERS OF ALTERNATIVE FUELED VEHICLE**
2 **FUELING REQUIREMENT.**

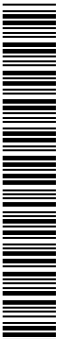
3 Section 400AA(a)(3)(E) of the Energy Policy and
4 Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended
5 to read as follows:

6 “(E)(i) Dual fueled vehicles acquired pursuant to this
7 section shall be operated on alternative fuels unless the
8 Secretary determines that an agency needs a waiver of
9 such requirement for vehicles in the fleet of the agency
10 in a particular geographic area where—

11 “(I) the alternative fuel otherwise required to
12 be used in the vehicle is not reasonably available to
13 retail purchasers of the fuel, as certified to the Sec-
14 retary by the head of the agency; or

15 “(II) the cost of the alternative fuel otherwise
16 required to be used in the vehicle is unreasonably
17 more expensive compared to gasoline, as certified by
18 the head of the agency.

19 “(ii) The Secretary shall monitor compliance with
20 this subparagraph by all such fleets and shall report annu-
21 ally to the Congress on the extent to which the require-
22 ments of this subparagraph are being achieved. The report
23 shall include information on annual reductions achieved
24 of petroleum-based fuels and the problems, if any, encoun-
25 tered in acquiring alternative fuels.”.



1 **SEC. 15047. TOTAL INTEGRATED THERMAL SYSTEMS.**

2 The Secretary shall—

3 (1) conduct a study of the benefits of total inte-
4 grated thermal systems in reducing demand for oil
5 and protecting the environment; and

6 (2) examine the feasibility of using total inte-
7 grated thermal systems in Department of Defense
8 and other Federal motor vehicle fleets.

9 **SEC. 15048. OIL BYPASS FILTRATION TECHNOLOGY.**

10 The Secretary of Energy and the Administrator of
11 the Environmental Protection Agency shall—

12 (1) conduct a joint study of the benefits of oil
13 bypass filtration technology in reducing demand for
14 oil and protecting the environment; and

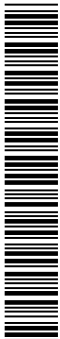
15 (2) examine the feasibility of using oil bypass
16 filtration technology in Federal motor vehicle fleets.

17 **SEC. 15049. NATURAL GAS CONDENSATE STUDY.**

18 Not later than 18 months after the date of enactment
19 of this Act, the Secretary of Energy, in consultation with
20 the Administrator of the Environmental Protection Agen-
21 cy, shall transmit to the Congress the results of a study
22 to consider fuels derived from natural gas condensate and
23 the appropriate blending of such condensates. The study
24 shall consider—

25 (1) usage options;

26 (2) potential volume capacities;



1 (3) costs;
2 (4) air emissions;
3 (5) fuel efficiencies; and
4 (6) potential use in the Federal fleet program
5 under title III of the Energy Policy Act of 1992 (42
6 U.S.C. 13201 et seq.).

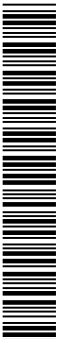
7 **TITLE VI—ELECTRICITY**
8 **Subtitle A—Transmission Capacity**
9 **SEC. 16011. TRANSMISSION INFRASTRUCTURE IMPROVE-**
10 **MENT RULEMAKING.**

11 Part II of the Federal Power Act (16 U.S.C. 824 et
12 seq.) is amended by adding the following new section at
13 the end thereof:

14 **“SEC. 215. TRANSMISSION INFRASTRUCTURE IMPROVE-**
15 **MENT RULEMAKING.**

16 “(a) RULEMAKING REQUIREMENT.—Within 1 year
17 after the enactment of this section, the Commission shall
18 establish, by rule, incentive-based (including but not lim-
19 ited to performance-based) transmission rate treatments
20 to promote capital investment in the enlargement and im-
21 provement of facilities for the transmission of electric en-
22 ergy in interstate commerce as appropriate to—

23 “(1) promote economically efficient trans-
24 mission and generation of electricity;



1 “(2) provide a return on equity that attracts
2 new investment in transmission facilities and reason-
3 ably reflects the risks taken by public utilities in re-
4 structuring control of transmission assets; and

5 “(3) encourage deployment of transmission
6 technologies and other measures to increase the ca-
7 pacity and efficiency of existing transmission facili-
8 ties and improve the operation of such facilities.

9 The Commission may, from time to time, revise such rule.

10 “(b) FUNDING OF CERTAIN FACILITIES.—The rule
11 promulgated pursuant to this section shall provide that,
12 upon the request of a regional transmission organization
13 or other Commission-approved transmission organization,
14 new transmission facilities that increase the transfer capa-
15 bility of the transmission system shall be participant fund-
16 ed. In such rules, the Commission shall also provide guid-
17 ance as to what types of facilities may be participant fund-
18 ed.

19 “(c) JUST AND REASONABLE RATES.—With respect
20 to any transmission rate filed with the Commission on or
21 after the effective date of the rule promulgated under this
22 section, the Commission shall, in its review of such rate
23 under sections 205 and 206, apply the rules adopted pur-
24 suant to this section, including any revisions thereto.
25 Nothing in this section shall be construed to override,



1 weaken, or conflict with the procedural and other require-
2 ments of this part, including the requirement of sections
3 205 and 206 that all rates, charges, terms, and conditions
4 be just and reasonable and not unduly discriminatory or
5 preferential.”.

6 **SEC. 16012. SITING OF INTERSTATE ELECTRICAL TRANS-**
7 **MISSION FACILITIES.**

8 (a) AMENDMENT OF FEDERAL POWER ACT.—Part
9 II of the Federal Power Act is amended by adding at the
10 end the following:

11 **“SEC. 216. SITING OF INTERSTATE ELECTRICAL TRANS-**
12 **MISSION FACILITIES**

13 “(a) TRANSMISSION STUDIES.—Within one year
14 after the enactment of this section, and every 3 years
15 thereafter, the Secretary of Energy shall conduct a study
16 of electric transmission congestion. After considering al-
17 ternatives and recommendations from interested parties
18 the Secretary shall issue a report, based on such study,
19 which may designate one or more geographic areas experi-
20 encing electric energy transmission congestion as ‘inter-
21 state congestion areas’.

22 “(b) CONSTRUCTION PERMIT.—The Commission is
23 authorized, after notice and an opportunity for hearing,
24 to issue permits for the construction or modification of
25 electric transmission facilities in interstate congestion



1 areas designated by the Secretary under subsection (a) if
2 the Commission makes each of the following findings:

3 “(1) A finding that—

4 “(A) the State in which the transmission
5 facilities are to be constructed or modified is
6 without authority to approve the siting of the
7 facilities, or

8 “(B) a State commission or body in the
9 State in which the transmission facilities are to
10 be constructed or modified that has authority to
11 approve the siting of the facilities has withheld
12 approval, conditioned its approval in such a
13 manner that the proposed construction or modi-
14 fication will not significantly reduce trans-
15 mission congestion in interstate commerce and
16 is otherwise not economically feasible, or de-
17 layed final approval for more than one year
18 after the filing of an application seeking ap-
19 proval or one year after the designation of the
20 relevant interstate congestion area, whichever is
21 later.

22 “(2) A finding that the facilities to be author-
23 ized by the permit will be used for the transmission
24 of electric energy in interstate commerce.



1 “(3) A finding that the proposed construction
2 or modification is consistent with the public interest.

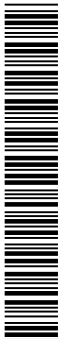
3 “(4) A finding that the proposed construction
4 or modification will significantly reduce transmission
5 congestion in interstate commerce.

6 The Commission may include in a permit issued under this
7 section conditions consistent with the public interest.

8 “(c) PERMIT APPLICATIONS.—Permit applications
9 under subsection (b) shall be made in writing to the Com-
10 mission and verified under oath. The Commission shall
11 issue rules setting forth the form of the application, the
12 information it is to contain, and the manner of service of
13 notice of the permit application upon interested persons.

14 “(d) COMMENTS.—In any proceeding before the
15 Commission under subsection (b), the Commission shall
16 afford each State in which a transmission facility covered
17 by the permit is or will be located, each affected Federal
18 agency and Indian tribe, private property owners, and
19 other interested persons, a reasonable opportunity to
20 present their views and recommendations with respect to
21 the need for and impact of a facility covered by the permit.

22 “(e) RIGHTS-OF-WAY.—In the case of a permit under
23 subsection (b) for electric transmission facilities to be lo-
24 cated on property other than property owned by the
25 United States or a State, if the permit holder cannot ac-

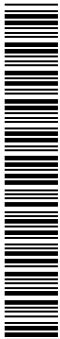


1 quire by contract, or is unable to agree with the owner
2 of the property to the compensation to be paid for, the
3 necessary right-of-way to construct or modify such trans-
4 mission facilities, the permit holder may acquire the right-
5 of-way by the exercise of the right of eminent domain in
6 the district court of the United States for the district in
7 which the property concerned is located, or in the appro-
8 priate court of the State in which the property is located.
9 The practice and procedure in any action or proceeding
10 for that purpose in the district court of the United States
11 shall conform as nearly as may be with the practice and
12 procedure in similar action or proceeding in the courts of
13 the State where the property is situated.

14 “(f) STATE LAW.—Nothing in this section shall pre-
15 clude any person from constructing any transmission fa-
16 cilities pursuant to State law.

17 “(g) COMPLIANCE WITH OTHER LAWS.—Commis-
18 sion action under this section shall be subject to the Na-
19 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
20 et seq.) and all other applicable Federal laws.

21 “(h) COMPENSATION.—Any exercise of eminent do-
22 main authority pursuant to this section shall be considered
23 a taking of private property for which just compensation
24 is due. Just compensation shall be an amount equal to
25 the full fair market value of the property taken on the

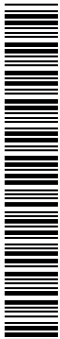


1 date of the exercise of eminent domain authority, except
2 that the compensation shall exceed fair market value if
3 necessary to make the landowner whole for decreases in
4 the value of any portion of the land not subject to eminent
5 domain. Any parcel of land acquired by eminent domain
6 under this subsection shall be transferred back to the
7 owner from whom it was acquired (or his heirs or assigns)
8 if the land is not used for power line construction or modi-
9 fication within a reasonable period of time after the acqui-
10 sition. Property acquired under this subsection may not
11 be used for any heritage area, recreational trail, or park,
12 or for any other purpose (other than power line construc-
13 tion or modification, and for power line operation and
14 maintenance) without the consent of the owner of the par-
15 cel from whom the property was acquired (or his heirs or
16 assigns).

17 “(i) ERCOT.—Nothing in this section shall be con-
18 strued to authorize any interconnection with any facility
19 owned or operated by an entity referred to in section
20 212(k)(2)(B).

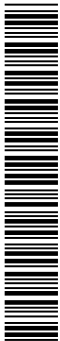
21 “(j) RIGHTS OF WAY ON FEDERAL LANDS.—

22 “(1) LEAD AGENCY.—If an applicant, or pro-
23 spective applicant, for Federal authorization related
24 to an electricity transmission or distribution facility
25 so requests, the Department of Energy (DOE) shall



1 act as the lead agency for purposes of coordinating
2 all applicable Federal authorization and related envi-
3 ronmental review of the facility. The term ‘Federal
4 authorization’ shall mean any authorization required
5 under Federal law in order to site a transmission or
6 distribution facility, including but not limited to
7 such permits, special use authorizations, certifi-
8 cations, opinions, or other approvals as may be re-
9 quired, whether issued by a Federal or a State agen-
10 cy. To the maximum extent practicable under appli-
11 cable Federal law, the Secretary of Energy shall co-
12 ordinate this Federal authorization and review proc-
13 ess with any Indian tribes, multi-State entities, and
14 State agencies that are responsible for conducting
15 any separate permitting and environmental reviews
16 of the facility, to ensure timely and efficient review
17 and permit decisions.

18 “(2) AUTHORITY TO SET DEADLINES.—As lead
19 agency, the Department of Energy, in consultation
20 with other Federal and, as appropriate, with Indian
21 tribes, multi-State entities, and State agencies that
22 are willing to coordinate their own separate permit-
23 ting and environmental reviews with the Federal au-
24 thorization and environmental reviews, shall estab-
25 lish prompt and binding intermediate milestones and

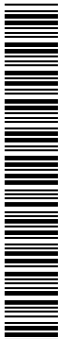


1 ultimate deadlines for the review of and Federal au-
2 thorization decisions relating to the proposed facil-
3 ity. The Secretary of Energy shall ensure that once
4 an application has been submitted with such data as
5 the Secretary deems necessary, all permit decisions
6 and related environmental reviews under all applica-
7 ble Federal laws shall be completed within 1 year or,
8 if a requirement of another provision of Federal law
9 makes this impossible, as soon thereafter as is prac-
10 ticable. The Secretary of Energy also shall provide
11 an expeditious pre-application mechanism for pro-
12 spective applicants to confer with the agencies in-
13 volved to have each such agency determine and com-
14 municate to the prospective applicant within 60 days
15 of when the prospective applicant submits a request
16 for such information concerning—

17 “(A) the likelihood of approval for a poten-
18 tial facility; and

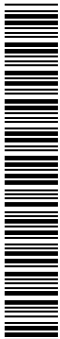
19 “(B) key issues of concern to the agencies
20 and public.

21 “(3) CONSOLIDATED ENVIRONMENTAL REVIEW
22 AND RECORD OF DECISION.—The Secretary of En-
23 ergy, in consultation with the affected agencies, shall
24 prepare a single environmental review document,
25 which shall be used as the basis for all decisions on



1 the proposed project under Federal law. The docu-
2 ment may be an environmental assessment or envi-
3 ronmental impact statement under the National En-
4 vironmental Policy Act of 1969 if warranted, or such
5 other form of analysis as may be warranted. DOE
6 and other agencies shall streamline the review and
7 permitting of transmission and distribution facilities
8 within corridors designated under section 503 of the
9 Federal Land Policy and Management Act (43
10 U.S.C. 1763) by fully taking into account prior anal-
11 yses and decisions as to the corridors. The document
12 under this section may consist of or include an envi-
13 ronmental assessment, if allowed by law, or an envi-
14 ronmental impact statement, if warranted or re-
15 quired by law, or such other form of analysis as war-
16 ranted, consistent with any requirement of the Na-
17 tional Environmental Policy Act, the Federal Land
18 Policy and Management Act, or any other applicable
19 law. Such document shall include consideration by
20 the relevant agencies of any applicable criteria or
21 other matters as required under applicable laws.

22 “(4) APPEALS.—In the event that any agency
23 has denied a Federal authorization required for a
24 transmission or distribution facility, or has failed to
25 act by the deadline established by the Secretary pur-



1 suant to this section for deciding whether to issue
2 the authorization, the applicant or any State in
3 which the facility would be located may file an ap-
4 peal with the Secretary of Energy, who shall, in con-
5 sultation with the affected agency, review the denial
6 or take action on the pending application. Based on
7 the overall record and in consultation with the af-
8 fected agency, the Secretary may then either issue
9 the necessary authorization with any appropriate
10 conditions, or deny the application. The Secretary
11 shall issue a decision within 90 days of the filing of
12 the appeal. In making a decision under this para-
13 graph, the Secretary shall comply with all applicable
14 requirements of Federal law, including any require-
15 ments of the Endangered Species Act, the Clean
16 Water Act, the National Forest Management Act,
17 the National Environmental Policy Act, and the
18 Federal Land Management and Policy Act.

19 “(5) CONFORMING REGULATIONS AND MEMO-
20 RANDA OF AGREEMENT.—Not later than 18 months
21 after the date of enactment of this section, the Sec-
22 retary of Energy shall issue any regulations nec-
23 essary to implement the foregoing provisions. Not
24 later than 1 year after the date of enactment of this
25 section, the Secretary and the heads of all relevant



1 Federal departments and non-departmental agencies
2 shall, and interested Indian tribes, multi-State enti-
3 ties, and State agencies may, enter into Memoranda
4 of Agreement to ensure the timely and coordinated
5 review and permitting of electricity transmission and
6 distribution facilities. The head of each Federal de-
7 partment or non-departmental agency with approval
8 authority shall designate a senior responsible official
9 and dedicate sufficient other staff and resources to
10 ensure that the DOE regulations and any Memo-
11 randa are fully implemented.

12 “(6) MISCELLANEOUS.—Each Federal author-
13 ization for an electricity transmission or distribution
14 facility shall be issued for a duration, as determined
15 by the Secretary of Energy, commensurate with the
16 anticipated use of the facility and with appropriate
17 authority to manage the right-of-way for reliability
18 and environmental protection. Further, when such
19 authorizations expire, they shall be reviewed for re-
20 newal taking fully into account reliance on such elec-
21 tricity infrastructure, recognizing its importance for
22 public health, safety and economic welfare and as a
23 legitimate use of Federal lands.

24 “(7) MAINTAINING AND ENHANCING THE
25 TRANSMISSION INFRASTRUCTURE.—In exercising the

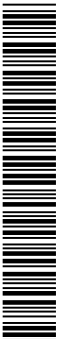


1 responsibilities under this section, the Secretary of
2 Energy shall consult regularly with the Federal En-
3 ergy Regulatory Commission (FERC) and FERC-
4 approved Regional Transmission Organizations and
5 Independent System Operators.

6 “(k) INTERSTATE COMPACTS.—The consent of Con-
7 gress is hereby given for States to enter into interstate
8 compacts establishing regional transmission siting agen-
9 cies to facilitate coordination among the States within
10 such areas for purposes of siting future electric energy
11 transmission facilities and to carry out State electric en-
12 ergy transmission siting responsibilities. The Secretary of
13 Energy may provide technical assistance to regional trans-
14 mission siting agencies established under this subsection.

15 “(l) SAVINGS CLAUSE.—Nothing in this section shall
16 be construed to affect any requirement of the environ-
17 mental laws of the United States, including, but not lim-
18 ited to, the National Environmental Policy Act of 1969.
19 This section shall not apply to any component of the Na-
20 tional Wilderness Preservation System, the National Wild
21 and Scenic Rivers System, or the National Park system
22 (including National Monuments therein).”.

23 (b) FEDERAL CORRIDORS.—The Secretary of the In-
24 terior, the Secretary of Energy, the Secretary of Agri-
25 culture, and the Chairman of the Council on Environ-

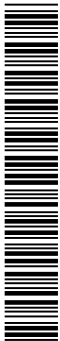


1 mental Quality shall, within 90 days of the date of enact-
2 ment of this subsection, submit a joint report to Congress
3 identifying the following:

4 (1) all existing designated transmission and dis-
5 tribution corridors on Federal land and the status of
6 work related to proposed transmission and distribu-
7 tion corridor designations, the schedule for com-
8 pleting such work, any impediments to completing
9 the work, and steps that Congress could take to ex-
10 pedite the process;

11 (2) the number of pending applications to lo-
12 cate transmission and distribution facilities on Fed-
13 eral lands, key information relating to each such fa-
14 cility, how long each application has been pending,
15 the schedule for issuing a timely decision as to each
16 facility, and progress in incorporating existing and
17 new such rights-of-way into relevant land use and
18 resource management plans or their equivalent; and

19 (3) the number of existing transmission and
20 distribution rights-of-way on Federal lands that will
21 come up for renewal within the following 5, 10, and
22 15 year periods, and a description of how the Secre-
23 taries plan to manage such renewals.



1 **SEC. 16013. TRANSMISSION TECHNOLOGIES.**

2 The Federal Energy Regulatory Commission shall
3 shall take affirmative steps in the exercise of its authori-
4 ties under the Federal Power Act to encourage the deploy-
5 ment of transmission technologies that utilize real time
6 monitoring and analytical software to increase and maxi-
7 mize the capacity and efficiency of transmission networks
8 and to reduce line losses.

9 **Subtitle B—Transmission**
10 **Operation**

11 **SEC. 16021. OPEN ACCESS TRANSMISSION BY CERTAIN**
12 **UTILITIES.**

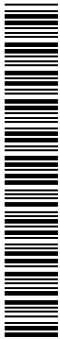
13 Part II of the Federal Power Act (16 U.S.C. 824 et
14 seq.) is amended by inserting after section 211 the fol-
15 lowing:

16 **“SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMIT-**
17 **TING UTILITIES.**

18 “(a) IN GENERAL.—Subject to section 212(h), the
19 Commission may, by rule or order, require an unregulated
20 transmitting utility to provide transmission services—

21 “(1) at rates that are comparable to those that
22 the unregulated transmitting utility charges itself,
23 and

24 “(2) on terms and conditions (not relating to
25 rates) that are comparable to those under which
26 such unregulated transmitting utility provides trans-



1 mission services to itself and that are not unduly
2 discriminatory or preferential.

3 “(b) EXEMPTIONS.—

4 “(1) IN GENERAL.—The Commission shall ex-
5 empt from any rule or order under this subsection
6 any unregulated transmitting utility that—

7 “(A)(i) sells no more than 4,000,000
8 megawatt hours of electricity per year; and

9 “(ii) is a distribution utility; or

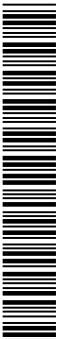
10 “(B) does not own or operate any trans-
11 mission facilities that are necessary for oper-
12 ating an interconnected transmission system (or
13 any portion thereof); or

14 “(C) meets other criteria the Commission
15 determines to be in the public interest.

16 “(2) LOCAL DISTRIBUTION.— The requirements
17 of subsection (a) shall not apply to facilities used in
18 local distribution.

19 “(c) RATE CHANGING PROCEDURES.—The rate
20 changing procedures applicable to public utilities under
21 subsections (c) and (d) of section 205 are applicable to
22 unregulated transmitting utilities for purposes of this sec-
23 tion.

24 “(d) REMAND.—In exercising its authority under
25 paragraph (1), the Commission may remand transmission



1 rates to an unregulated transmitting utility for review and
2 revision where necessary to meet the requirements of sub-
3 section (a).

4 “(e) SECTION 211 REQUESTS.—The provision of
5 transmission services under subsection (a) does not pre-
6 clude a request for transmission services under section
7 211.

8 “(f) DEFINITIONS.—For purposes of this section—

9 “(1) The term ‘unregulated transmitting utility’
10 means an entity that—

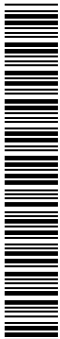
11 “(A) owns or operates facilities used for
12 the transmission of electric energy in interstate
13 commerce, and

14 “(B) is either an entity described in sec-
15 tion 201(f) or a rural electric cooperative.

16 “(2) The term ‘distribution utility’ means an
17 unregulated transmitting utility that serves at least
18 ninety percent of its electric customers at retail.”.

19 **SEC. 16022. REGIONAL TRANSMISSION ORGANIZATIONS.**

20 (a) SENSE OF THE CONGRESS ON RTOS.—It is the
21 sense of Congress that, in order to promote fair, open ac-
22 cess to electric transmission service, benefit retail con-
23 sumers, facilitate wholesale competition, improve effi-
24 ciencies in transmission grid management, promote grid
25 reliability, remove opportunities for unduly discriminatory



1 or preferential transmission practices, and provide for the
2 efficient development of transmission infrastructure need-
3 ed to meet the growing demands of competitive wholesale
4 power markets, all transmitting utilities in interstate com-
5 merce should voluntarily become members of independ-
6 ently administered regional transmission organizations
7 that have operational control of interstate transmission fa-
8 cilities and do not own or control generation facilities used
9 to supply electric energy for sale at wholesale.

10 (b) SENSE OF THE CONGRESS ON CAPITAL INVEST-
11 MENT.—It is the sense of the Congress that the Federal
12 Energy Regulatory Commission should provide to any
13 transmitting utility that becomes a member of an oper-
14 ational regional transmitting organization approved by the
15 Commission a return on equity sufficient to attract new
16 investment capital for expansion of transmission capacity,
17 in accordance with sections 205 and 206 of the Federal
18 Power Act (16 U.S.C. 824d and 824e), including the re-
19 quirement that rates be just and reasonable.

20 (c) REPORT ON PENDING APPLICATIONS.—Not later
21 than 120 days after the date of enactment of this section,
22 the Federal Energy Regulatory Commission shall submit
23 to the Committee on Energy and Commerce of the United
24 States House of Representatives and the Committee on



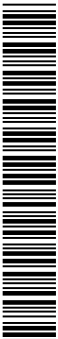
1 Energy and Natural Resources of the United States Sen-
2 ate a report containing the following:

3 (1) A list of all regional transmission organiza-
4 tion applications filed at the Commission pursuant
5 to the Commission's Order No. 2000, including an
6 identification of each public utility and other entity
7 included within the proposed membership of the re-
8 gional transmission organization.

9 (2) A table showing the date each such applica-
10 tion was filed, the date of any revised filings of such
11 application, the date of each preliminary or final
12 Commission order regarding such application, and a
13 statement of whether the application has been re-
14 jected, preliminarily approved, finally approved, or
15 has some other status (including a description of
16 that status).

17 (3) For any application that has not been fi-
18 nally approved by the Commission, a detailed de-
19 scription of every aspect of the application that the
20 Commission has determined does not conform to the
21 requirements of Order No. 2000.

22 (4) For any application that has not been fi-
23 nally approved by the Commission, an explanation
24 by the Commission of why the items described pur-
25 suant to paragraph (3) constitute material non-



1 compliance with the requirements of the Commis-
2 sion's Order No. 2000 sufficient to justify denial of
3 approval by the Commission.

4 (5) For all regional transmission organization
5 applications filed pursuant to the Commission's
6 Order No. 2000, whether finally approved or not—

7 (A) a discussion of that regional trans-
8 mission organization's efforts to minimize rate
9 seams between itself and—

10 (i) other regional transmission organi-
11 zations; and

12 (ii) entities not participating in a re-
13 gional transmission organization; and

14 (B) a discussion of the impact of such
15 seams on consumers and wholesale competition;
16 and

17 (C) a discussion of minimizing cost-shifting
18 on consumers.

19 (d) FEDERAL UTILITY PARTICIPATION IN RTOS.—

20 (1) DEFINITIONS.—For purposes of this
21 section—

22 (A) The term “appropriate Federal regu-
23 latory authority” means—

24 (i) with respect to a Federal power
25 marketing agency, the Secretary of En-



1 ergy, except that the Secretary may des-
2 ignate the Administrator of a Federal
3 power marketing agency to act as the ap-
4 propriate Federal regulatory authority with
5 respect to the transmission system of that
6 Federal power marketing agency; and

7 (ii) with respect to the Tennessee Val-
8 ley Authority, the Board of Directors of
9 the Tennessee Valley Authority.

10 (B) The term “Federal utility” means a
11 Federal power marketing agency or the Ten-
12 nessee Valley Authority.

13 (C) The term “transmission system”
14 means electric transmission facilities owned,
15 leased, or contracted for by the United States
16 and operated by a Federal utility.

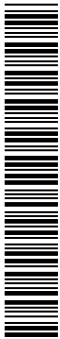
17 (2) TRANSFER.—The appropriate Federal regu-
18 latory authority is authorized to enter into a con-
19 tract, agreement or other arrangement transferring
20 control and use of all or part of the Federal utility’s
21 transmission system to a regional transmission orga-
22 nization approved by the Federal Energy Regulatory
23 Commission. Such contract, agreement or arrange-
24 ment shall include—



1 (A) performance standards for operation
2 and use of the transmission system that the
3 head of the Federal utility determines necessary
4 or appropriate, including standards that assure
5 recovery of all the Federal utility's costs and
6 expenses related to the transmission facilities
7 that are the subject of the contract, agreement
8 or other arrangement, consistency with existing
9 contracts and third-party financing arrange-
10 ments, and consistency with said Federal util-
11 ity's statutory authorities, obligations, and limi-
12 tations;

13 (B) provisions for monitoring and over-
14 sight by the Federal utility of the regional
15 transmission organization's fulfillment of the
16 terms and conditions of the contract, agreement
17 or other arrangement, including a provision
18 that may provide for the resolution of disputes
19 through arbitration or other means with the re-
20 gional transmission organization or with other
21 participants, notwithstanding the obligations
22 and limitations of any other law regarding arbi-
23 tration; and

24 (C) a provision that allows the Federal
25 utility to withdraw from the regional trans-



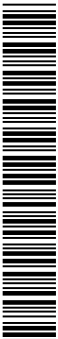
1 mission organization and terminate the con-
2 tract, agreement or other arrangement in ac-
3 cordance with its terms.

4 Neither this section, actions taken pursuant to it,
5 nor any other transaction of a Federal utility using
6 a regional transmission organization shall serve to
7 confer upon the Federal Energy Regulatory Com-
8 mission jurisdiction or authority over the Federal
9 utility's electric generation assets, electric capacity
10 or energy that the Federal utility is authorized by
11 law to market, or the Federal utility's power sales
12 activities.

13 (3) EXISTING STATUTORY AND OTHER OBLIGA-
14 TIONS.—

15 (A) SYSTEM OPERATION REQUIRE-
16 MENTS.—Any statutory provision requiring or
17 authorizing a Federal utility to transmit electric
18 power or to construct, operate or maintain its
19 transmission system shall not be construed to
20 prohibit a transfer of control and use of its
21 transmission system pursuant to, and subject to
22 all requirements of paragraph (2).

23 (B) OTHER OBLIGATIONS.—This sub-
24 section shall not be construed to—



1 (i) suspend, or exempt any Federal
2 utility from, any provision of existing Fed-
3 eral law, including but not limited to any
4 requirement or direction relating to the use
5 of the Federal utility's transmission sys-
6 tem, environmental protection, fish and
7 wildlife protection, flood control, naviga-
8 tion, water delivery, or recreation; or

9 (ii) authorize abrogation of any con-
10 tract or treaty obligation.

11 **SEC. 16023. NATIVE LOAD.**

12 Part II of the Federal Power Act (16 U.S.C. 824 et
13 seq.) is amended by adding the following new section at
14 the end thereof:

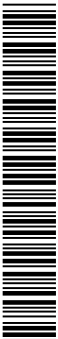
15 **“SEC. 217. SERVICE OBLIGATIONS OF LOAD-SERVING ENTI-**
16 **TIES.**

17 “(a) IN GENERAL.—In exercising authority under
18 this Act, the Commission shall ensure that any load-serv-
19 ing entity that either—

20 “(1) owns transmission facilities for the trans-
21 mission of electric energy in interstate commerce
22 used to purchase or deliver electric energy to meet—

23 “(A) a service obligation to customers; or

24 “(B) an existing wholesale contractual obli-
25 gation; or



1 “(2) holds a contract or service agreement for
2 firm transmission service used to purchase or deliver
3 electric energy to meet—

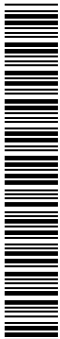
4 “(A) a service obligation to customers; or

5 “(B) an existing wholesale contractual obli-
6 gation

7 shall be entitled to use such transmission facilities or
8 equivalent transmission rights to meet such obligations be-
9 fore transmission capacity is made available for other
10 uses.

11 “(b) USE BY SUCCESSOR IN INTEREST.—To the ex-
12 tent that all or a portion of the service obligation or con-
13 tractual obligation covered by subsection (a) is transferred
14 to another load serving entity, the successor shall be enti-
15 tled to use such transmission facilities or firm trans-
16 mission rights associated with the transferred service obli-
17 gation consistent with subsection (a). Subsequent trans-
18 fers to another load serving entity, or back to the original
19 load-serving entity, shall be entitled to the same rights.

20 “(c) OTHER ENTITIES.—The Commission may exer-
21 cise authority under this Act to make transmission rights
22 not used to meet an obligation covered by subsection (a)
23 available to other entities in a manner determined by the
24 Commission to be not unduly discriminatory or pref-
25 erential.



1 “(d) DEFINITIONS.—For the purposes of this section:

2 “(1) The term ‘load-serving entity’ means an
3 electric utility, transmitting utility or Federal power
4 marketing agency that has an obligation under Fed-
5 eral, State, or local law, or under long-term con-
6 tracts, to provide electric service to either—

7 “(A) electric consumers (as defined in sec-
8 tion 3(5) of the Public Utility Regulatory Poli-
9 cies Act of 1978 (16 U.S.C. 2602(5)); or

10 “(B) an electric utility as defined in sec-
11 tion 3(4) of the Public Utility Regulatory Poli-
12 cies Act of 1978 (16 U.S.C. 2602(5)) that has
13 an obligation to provide electric service to elec-
14 tric consumers.

15 Such obligations shall be deemed ‘service obliga-
16 tions’.

17 “(2) The term ‘existing wholesale contractual
18 obligation’ means an obligation under a firm long-
19 term wholesale contract that was in effect on March
20 28, 2003. A contract modification after March 28,
21 2003 (other than one that increases the quantity of
22 electric energy sold under the contract) shall not af-
23 fect the status of such contract as an existing whole-
24 sale contractual obligation.



1 “(e) RELATIONSHIP TO OTHER PROVISIONS.—To the
2 extent that a transmitting utility reserves transmission ca-
3 pacity (or reserves the equivalent amount of tradable
4 transmission rights) to provide firm transmission service
5 to meet service obligations or firm long-term wholesale
6 contractual obligations pursuant to subsection (a), that
7 transmitting utility shall not be considered as engaging
8 in undue discrimination or preference under this Act.

9 “(f) JURISDICTION.—This section shall not apply to
10 an entity located in an area referred to in section
11 212(k)(2)(A).

12 “(g) SAVINGS CLAUSE.—Nothing in this section shall
13 affect any allocation of transmission rights by the PJM
14 Interconnection, the New York Independent System Oper-
15 ator, the New England Independent System Operator, the
16 Midwest Independent System Operator, or the California
17 Independent System Operator. Nothing in this section
18 shall provide a basis for abrogating any contract for firm
19 transmission service or rights in effect as of the date of
20 enactment of this section.”.

21 **Subtitle C—Reliability**

22 **SEC. 16031. ELECTRIC RELIABILITY STANDARDS.**

23 Part II of the Federal Power Act (16 U.S.C 824 et
24 seq.) is amended by inserting the following new section
25 at the end thereof:



1 **“SEC. 218. ELECTRIC RELIABILITY.**

2 “(a) DEFINITIONS.—For purposes of this section—

3 “(1) The term ‘bulk-power system’ means—

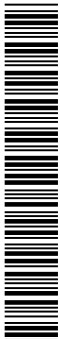
4 “(A) facilities and control systems nec-
5 essary for operating an interconnected electric
6 energy transmission network (or any portion
7 thereof); and

8 “(B) electric energy from generation facili-
9 ties needed to maintain transmission system re-
10 liability.

11 The term does not include facilities used in the local
12 distribution of electric energy.

13 “(2) The terms ‘Electric Reliability Organiza-
14 tion’ and ‘ERO’ mean the organization certified by
15 the Commission under subsection (c) the purpose of
16 which is to establish and enforce reliability stand-
17 ards for the bulk-power system, subject to Commis-
18 sion review.

19 “(3) The term ‘reliability standard’ means a re-
20 quirement, approved by the Commission under this
21 section, to provide for reliable operation of the bulk-
22 power system. The term includes requirements for
23 the operation of existing bulk-power system facilities
24 and the design of planned additions or modifications
25 to such facilities to the extent necessary to provide
26 for reliable operation of the bulk-power system, but

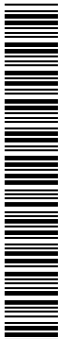


1 the term does not include any requirement to en-
2 large such facilities or to construct new transmission
3 capacity or generation capacity.

4 “(4) The term ‘reliable operation’ means oper-
5 ating the elements of the bulk-power system within
6 equipment and electric system thermal, voltage, and
7 stability limits so that instability, uncontrolled sepa-
8 ration, or cascading failures of such system will not
9 occur as a result of a sudden disturbance or unan-
10 ticipated failure of system elements.

11 “(5) The term ‘Interconnection’ means a geo-
12 graphic area in which the operation of bulk-power
13 system components is synchronized such that the
14 failure of one or more of such components may ad-
15 versely affect the ability of the operators of other
16 components within the system to maintain reliable
17 operation of the facilities within their control.

18 “(6) The term ‘transmission organization’
19 means a regional transmission organization, inde-
20 pendent system operator, independent transmission
21 provider, or other transmission organization finally
22 approved by the Commission for the operation of
23 transmission facilities.



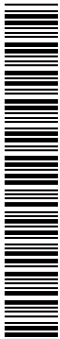
1 “(7) The term ‘regional entity’ means an entity
2 having enforcement authority pursuant to subsection
3 (e)(4).

4 “(b) JURISDICTION AND APPLICABILITY.—(1) The
5 Commission shall have jurisdiction, within the United
6 States, over the ERO certified by the Commission under
7 subsection (c), any regional entities, and all users, owners
8 and operators of the bulk-power system, including but not
9 limited to the entities described in section 201(f), for pur-
10 poses of approving reliability standards established under
11 this section and enforcing compliance with this section. All
12 users, owners and operators of the bulk-power system
13 shall comply with reliability standards that take effect
14 under this section.

15 “(2) The Commission shall issue a final rule to imple-
16 ment the requirements of this section not later than 180
17 days after the date of enactment of this section.

18 “(c) CERTIFICATION.—Following the issuance of a
19 Commission rule under subsection (b)(2), any person may
20 submit an application to the Commission for certification
21 as the Electric Reliability Organization (ERO). The Com-
22 mission may certify one such ERO if the Commission de-
23 termines that such ERO—

24 “(1) has the ability to develop and enforce, sub-
25 ject to subsection (e)(2), reliability standards that



1 provide for an adequate level of reliability of the
2 bulk-power system;

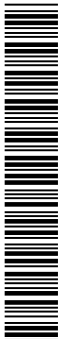
3 “(2) has established rules that—

4 “(A) assure its independence of the users
5 and owners and operators of the bulk-power
6 system, while assuring fair stakeholder rep-
7 resentation in the selection of its directors and
8 balanced decisionmaking in any ERO com-
9 mittee or subordinate organizational structure;

10 “(B) allocate equitably reasonable dues,
11 fees, and other charges among end users for all
12 activities under this section;

13 “(C) provide fair and impartial procedures
14 for enforcement of reliability standards through
15 the imposition of penalties in accordance with
16 subsection (e) (including limitations on activi-
17 ties, functions, or operations, or other appro-
18 priate sanctions);

19 “(D) provide for reasonable notice and op-
20 portunity for public comment, due process,
21 openness, and balance of interests in developing
22 reliability standards and otherwise exercising its
23 duties; and

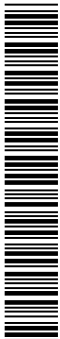


1 “(E) provide for taking, after certification,
2 appropriate steps to gain recognition in Canada
3 and Mexico.

4 “(d) RELIABILITY STANDARDS.—(1) The Electric
5 Reliability Organization shall file each reliability standard
6 or modification to a reliability standard that it proposes
7 to be made effective under this section with the Commis-
8 sion.

9 “(2) The Commission may approve, by rule or order,
10 a proposed reliability standard or modification to a reli-
11 ability standard if it determines that the standard is just,
12 reasonable, not unduly discriminatory or preferential, and
13 in the public interest. The Commission shall give due
14 weight to the technical expertise of the Electric Reliability
15 Organization with respect to the content of a proposed
16 standard or modification to a reliability standard and to
17 the technical expertise of a regional entity organized on
18 an Interconnection-wide basis with respect to a reliability
19 standard to be applicable within that Interconnection, but
20 shall not defer with respect to the effect of a standard
21 on competition. A proposed standard or modification shall
22 take effect upon approval by the Commission.

23 “(3) The Electric Reliability Organization shall
24 rebuttably presume that a proposal from a regional entity
25 organized on an Interconnection-wide basis for a reliability

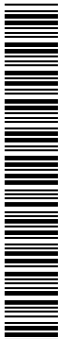


1 standard or modification to a reliability standard to be ap-
2 plicable on an Interconnection-wide basis is just, reason-
3 able, and not unduly discriminatory or preferential, and
4 in the public interest.

5 “(4) The Commission shall remand to the Electric
6 Reliability Organization for further consideration a pro-
7 posed reliability standard or a modification to a reliability
8 standard that the Commission disapproves in whole or in
9 part.

10 “(5) The Commission, upon its own motion or upon
11 complaint, may order the Electric Reliability Organization
12 to submit to the Commission a proposed reliability stand-
13 ard or a modification to a reliability standard that ad-
14 dresses a specific matter if the Commission considers such
15 a new or modified reliability standard appropriate to carry
16 out this section.

17 “(6) The final rule adopted under subsection (b)(2)
18 shall include fair processes for the identification and time-
19 ly resolution of any conflict between a reliability standard
20 and any function, rule, order, tariff, rate schedule, or
21 agreement accepted, approved, or ordered by the Commis-
22 sion applicable to a transmission organization. Such trans-
23 mission organization shall continue to comply with such
24 function, rule, order, tariff, rate schedule or agreement ac-
25 cepted approved, or ordered by the Commission until—



1 “(A) the Commission finds a conflict exists be-
2 tween a reliability standard and any such provision;

3 “(B) the Commission orders a change to such
4 provision pursuant to section 206 of this part; and

5 “(C) the ordered change becomes effective
6 under this part.

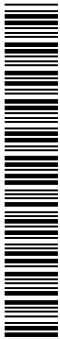
7 If the Commission determines that a reliability standard
8 needs to be changed as a result of such a conflict, it shall
9 order the ERO to develop and file with the Commission
10 a modified reliability standard under paragraph (4) or (5)
11 of this subsection.

12 “(e) ENFORCEMENT.—(1) The ERO may impose,
13 subject to paragraph (2), a penalty on a user or owner
14 or operator of the bulk-power system for a violation of a
15 reliability standard approved by the Commission under
16 subsection (d) if the ERO, after notice and an opportunity
17 for a hearing—

18 “(A) finds that the user or owner or operator
19 has violated a reliability standard approved by the
20 Commission under subsection (d); and

21 “(B) files notice and the record of the pro-
22 ceeding with the Commission.

23 “(2) A penalty imposed under paragraph (1) may
24 take effect not earlier than the 31st day after the electric
25 reliability organization files with the Commission notice of



1 the penalty and the record of proceedings. Such penalty
2 shall be subject to review by the Commission, on its own
3 motion or upon application by the user, owner or operator
4 that is the subject of the penalty filed within 30 days after
5 the date such notice is filed with the Commission. Applica-
6 tion to the Commission for review, or the initiation of re-
7 view by the Commission on its own motion, shall not oper-
8 ate as a stay of such penalty unless the Commission other-
9 wise orders upon its own motion or upon application by
10 the user, owner or operator that is the subject of such
11 penalty. In any proceeding to review a penalty imposed
12 under paragraph (1), the Commission, after notice and op-
13 portunity for hearing (which hearing may consist solely
14 of the record before the electric reliability organization and
15 opportunity for the presentation of supporting reasons to
16 affirm, modify, or set aside the penalty), shall by order
17 affirm, set aside, reinstate, or modify the penalty, and,
18 if appropriate, remand to the electric reliability organiza-
19 tion for further proceedings. The Commission shall imple-
20 ment expedited procedures for such hearings.

21 “(3) On its own motion or upon complaint, the Com-
22 mission may order compliance with a reliability standard
23 and may impose a penalty against a user or owner or oper-
24 ator of the bulk-power system, if the Commission finds,
25 after notice and opportunity for a hearing, that the user



1 or owner or operator of the bulk-power system has en-
2 gaged or is about to engage in any acts or practices that
3 constitute or will constitute a violation of a reliability
4 standard.

5 “(4) The Commission shall establish regulations au-
6 thorizing the ERO to enter into an agreement to delegate
7 authority to a regional entity for the purpose of proposing
8 reliability standards to the ERO and enforcing reliability
9 standards under paragraph (1) if—

10 “(A) the regional entity is governed by—

11 “(i) an independent board;

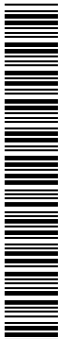
12 “(ii) a balanced stakeholder board; or

13 “(iii) a combination independent and bal-
14 anced stakeholder board.

15 “(B) the regional entity otherwise satisfies the
16 provisions of subsection (c)(1) and (2); and

17 “(C) the agreement promotes effective and effi-
18 cient administration of bulk-power system reliability.

19 The Commission may modify such delegation. The ERO
20 and the Commission shall rebuttably presume that a pro-
21 posal for delegation to a regional entity organized on an
22 Interconnection-wide basis promotes effective and efficient
23 administration of bulk-power system reliability and should
24 be approved. Such regulation may provide that the Com-
25 mission may assign the ERO’s authority to enforce reli-

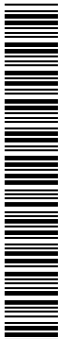


1 ability standards under paragraph (1) directly to a re-
2 gional entity consistent with the requirements of this para-
3 graph.

4 “(5) The Commission may take such action as is nec-
5 essary or appropriate against the ERO or a regional entity
6 to ensure compliance with a reliability standard or any
7 Commission order affecting the ERO or a regional entity.

8 “(6) Any penalty imposed under this section shall
9 bear a reasonable relation to the seriousness of the viola-
10 tion and shall take into consideration the efforts of such
11 user, owner, or operator to remedy the violation in a time-
12 ly manner.

13 “(f) CHANGES IN ELECTRICITY RELIABILITY ORGA-
14 NIZATION RULES.—The Electric Reliability Organization
15 shall file with the Commission for approval any proposed
16 rule or proposed rule change, accompanied by an expla-
17 nation of its basis and purpose. The Commission, upon
18 its own motion or complaint, may propose a change to the
19 rules of the Electric Reliability Organization. A proposed
20 rule or proposed rule change shall take effect upon a find-
21 ing by the Commission, after notice and opportunity for
22 comment, that the change is just, reasonable, not unduly
23 discriminatory or preferential, is in the public interest, and
24 satisfies the requirements of subsection (c).



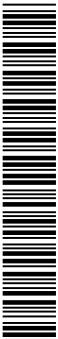
1 “(g) RELIABILITY REPORTS.—The Electric Reli-
2 ability Organization shall conduct periodic assessments of
3 the reliability and adequacy of the bulk-power system in
4 North America.

5 “(h) COORDINATION WITH CANADA AND MEXICO.—
6 The President is urged to negotiate international agree-
7 ments with the governments of Canada and Mexico to pro-
8 vide for effective compliance with reliability standards and
9 the effectiveness of the Electric Reliability Organization
10 in the United States and Canada or Mexico.

11 “(i) SAVINGS PROVISIONS.—(1) The Electric Reli-
12 ability Organization shall have authority to develop and
13 enforce compliance with reliability standards for only the
14 bulk-power system.

15 “(2) This section does not authorize the Electric Reli-
16 ability Organization or the Commission to order the con-
17 struction of additional generation or transmission capacity
18 or to set and enforce compliance with standards for ade-
19 quacy or safety of electric facilities or services.

20 “(3) Nothing in this section shall be construed to pre-
21 empt any authority of any State to take action to ensure
22 the safety, adequacy, and reliability of electric service
23 within that State, as long as such action is not incon-
24 sistent with any reliability standard, except that the State
25 of New York may establish rules that result in greater

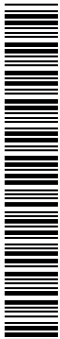


1 reliability within that State, as long as such action does
2 not result in lesser reliability outside the State than that
3 provided by the reliability standards.

4 “(4) Within 90 days of the application of the Electric
5 Reliability Organization or other affected party, and after
6 notice and opportunity for comment, the Commission shall
7 issue a final order determining whether a State action is
8 inconsistent with a reliability standard, taking into consid-
9 eration any recommendation of the Electric Reliability Or-
10 ganization.

11 “(5) The Commission, after consultation with the
12 Electric Reliability Organization and the State taking ac-
13 tion, may stay the effectiveness of any State action, pend-
14 ing the Commission’s issuance of a final order.

15 “(j) REGIONAL ADVISORY BODIES.—The Commis-
16 sion shall establish a regional advisory body on the petition
17 of at least two-thirds of the States within a region that
18 have more than one-half of their electric load served within
19 the region. A regional advisory body shall be composed or
20 of one member from each participating State in the region,
21 appointed by the Governor of each State, and may include
22 representatives of agencies, States, and provinces outside
23 the United States. A regional advisory body may provide
24 advice to the Electric Reliability Organization, a regional
25 entity, or the Commission regarding the governance of an



1 existing or proposed regional entity within the same re-
2 gion, whether a standard proposed to apply within the re-
3 gion is just, reasonable, not unduly discriminatory or pref-
4 erential, and in the public interest, whether fees proposed
5 to be assessed within the region are just, reasonable, not
6 unduly discriminatory or preferential, and in the public
7 interest and any other responsibilities requested by the
8 Commission. The Commission may give deference to the
9 advice of any such regional advisory body if that body is
10 organized on an Interconnection-wide basis.

11 “(k) APPLICATION TO ALASKA AND HAWAII.—The
12 provisions of this section do not apply to Alaska or Ha-
13 waii.”.

14 **Subtitle D—PUHCA Amendments**

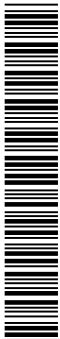
15 **SEC. 16041. SHORT TITLE.**

16 This subtitle may be cited as the “Public Utility
17 Holding Company Act of 2003”.

18 **SEC. 16042. DEFINITIONS.**

19 For purposes of this subtitle:

20 (1) The term “affiliate” of a company means
21 any company, 5 percent or more of the outstanding
22 voting securities of which are owned, controlled, or
23 held with power to vote, directly or indirectly, by
24 such company.



1 (2) The term “associate company” of a com-
2 pany means any company in the same holding com-
3 pany system with such company.

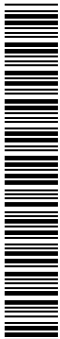
4 (3) The term “Commission” means the Federal
5 Energy Regulatory Commission.

6 (4) The term “company” means a corporation,
7 partnership, association, joint stock company, busi-
8 ness trust, or any organized group of persons,
9 whether incorporated or not, or a receiver, trustee,
10 or other liquidating agent of any of the foregoing.

11 (5) The term “electric utility company” means
12 any company that owns or operates facilities used
13 for the generation, transmission, or distribution of
14 electric energy for sale.

15 (6) The terms “exempt wholesale generator”
16 and “foreign utility company” have the same mean-
17 ings as in sections 32 and 33, respectively, of the
18 Public Utility Holding Company Act of 1935 (15
19 U.S.C. 79z-5a, 79z-5b), as those sections existed on
20 the day before the effective date of this subtitle.

21 (7) The term “gas utility company” means any
22 company that owns or operates facilities used for
23 distribution at retail (other than the distribution
24 only in enclosed portable containers or distribution
25 to tenants or employees of the company operating



1 such facilities for their own use and not for resale)
2 of natural or manufactured gas for heat, light, or
3 power.

4 (8) The term “holding company” means—

5 (A) any company that directly or indirectly
6 owns, controls, or holds, with power to vote, 10
7 percent or more of the outstanding voting secu-
8 rities of a public utility company or of a holding
9 company of any public utility company; and

10 (B) any person, determined by the Com-
11 mission, after notice and opportunity for hear-
12 ing, to exercise directly or indirectly (either
13 alone or pursuant to an arrangement or under-
14 standing with one or more persons) such a con-
15 trolling influence over the management or poli-
16 cies of any public utility company or holding
17 company as to make it necessary or appropriate
18 for the rate protection of utility customers with
19 respect to rates that such person be subject to
20 the obligations, duties, and liabilities imposed
21 by this subtitle upon holding companies.

22 (9) The term “holding company system” means
23 a holding company, together with its subsidiary com-
24 panies.



1 (10) The term “jurisdictional rates” means
2 rates established by the Commission for the trans-
3 mission of electric energy in interstate commerce,
4 the sale of electric energy at wholesale in interstate
5 commerce, the transportation of natural gas in inter-
6 state commerce, and the sale in interstate commerce
7 of natural gas for resale for ultimate public con-
8 sumption for domestic, commercial, industrial, or
9 any other use.

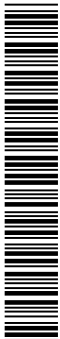
10 (11) The term “natural gas company” means a
11 person engaged in the transportation of natural gas
12 in interstate commerce or the sale of such gas in
13 interstate commerce for resale.

14 (12) The term “person” means an individual or
15 company.

16 (13) The term “public utility” means any per-
17 son who owns or operates facilities used for trans-
18 mission of electric energy in interstate commerce or
19 sales of electric energy at wholesale in interstate
20 commerce.

21 (14) The term “public utility company” means
22 an electric utility company or a gas utility company.

23 (15) The term “State commission” means any
24 commission, board, agency, or officer, by whatever
25 name designated, of a State, municipality, or other



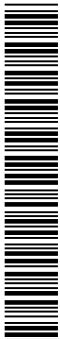
1 political subdivision of a State that, under the laws
2 of such State, has jurisdiction to regulate public util-
3 ity companies.

4 (16) The term “subsidiary company” of a hold-
5 ing company means—

6 (A) any company, 10 percent or more of
7 the outstanding voting securities of which are
8 directly or indirectly owned, controlled, or held
9 with power to vote, by such holding company;
10 and

11 (B) any person, the management or poli-
12 cies of which the Commission, after notice and
13 opportunity for hearing, determines to be sub-
14 ject to a controlling influence, directly or indi-
15 rectly, by such holding company (either alone or
16 pursuant to an arrangement or understanding
17 with one or more other persons) so as to make
18 it necessary for the rate protection of utility
19 customers with respect to rates that such per-
20 son be subject to the obligations, duties, and li-
21 abilities imposed by this subtitle upon sub-
22 subsidiary companies of holding companies.

23 (17) The term “voting security” means any se-
24 curity presently entitling the owner or holder thereof



1 to vote in the direction or management of the affairs
2 of a company.

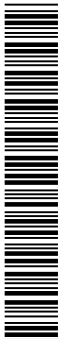
3 **SEC. 16043. REPEAL OF THE PUBLIC UTILITY HOLDING**
4 **COMPANY ACT OF 1935.**

5 The Public Utility Holding Company Act of 1935 (15
6 U.S.C. 79 et seq.) is repealed.

7 **SEC. 16044. FEDERAL ACCESS TO BOOKS AND RECORDS.**

8 (a) IN GENERAL.—Each holding company and each
9 associate company thereof shall maintain, and shall make
10 available to the Commission, such books, accounts, memo-
11 randa, and other records as the Commission deems to be
12 relevant to costs incurred by a public utility or natural
13 gas company that is an associate company of such holding
14 company and necessary or appropriate for the protection
15 of utility customers with respect to jurisdictional rates.

16 (b) AFFILIATE COMPANIES.—Each affiliate of a hold-
17 ing company or of any subsidiary company of a holding
18 company shall maintain, and shall make available to the
19 Commission, such books, accounts, memoranda, and other
20 records with respect to any transaction with another affil-
21 iate, as the Commission deems to be relevant to costs in-
22 curred by a public utility or natural gas company that is
23 an associate company of such holding company and nec-
24 essary or appropriate for the protection of utility cus-
25 tomers with respect to jurisdictional rates.



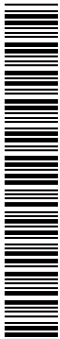
1 (c) HOLDING COMPANY SYSTEMS.—The Commission
2 may examine the books, accounts, memoranda, and other
3 records of any company in a holding company system, or
4 any affiliate thereof, as the Commission deems to be rel-
5 evant to costs incurred by a public utility or natural gas
6 company within such holding company system and nec-
7 essary or appropriate for the protection of utility cus-
8 tomers with respect to jurisdictional rates.

9 (d) CONFIDENTIALITY.—No member, officer, or em-
10 ployee of the Commission shall divulge any fact or infor-
11 mation that may come to his or her knowledge during the
12 course of examination of books, accounts, memoranda, or
13 other records as provided in this section, except as may
14 be directed by the Commission or by a court of competent
15 jurisdiction.

16 **SEC. 16045. STATE ACCESS TO BOOKS AND RECORDS.**

17 (a) In GENERAL.—Upon the written request of a
18 State commission having jurisdiction to regulate a public
19 utility company in a holding company system, the holding
20 company or any associate company or affiliate thereof,
21 other than such public utility company, wherever located,
22 shall produce for inspection books, accounts, memoranda,
23 and other records that—

24 (1) have been identified in reasonable detail by
25 the State commission;



1 (2) the State commission deems are relevant to
2 costs incurred by such public utility company; and

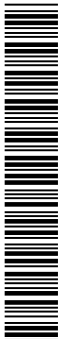
3 (3) are necessary for the effective discharge of
4 the responsibilities of the State commission with re-
5 spect to such proceeding.

6 (b) LIMITATION.—Subsection (a) does not apply to
7 any person that is a holding company solely by reason of
8 ownership of one or more qualifying facilities under the
9 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
10 2601 et seq.).

11 (c) CONFIDENTIALITY OF INFORMATION.—The pro-
12 duction of books, accounts, memoranda, and other records
13 under subsection (a) shall be subject to such terms and
14 conditions as may be necessary and appropriate to safe-
15 guard against unwarranted disclosure to the public of any
16 trade secrets or sensitive commercial information.

17 (d) EFFECT ON STATE LAW.—Nothing in this sec-
18 tion shall preempt applicable State law concerning the pro-
19 vision of books, accounts, memoranda, and other records,
20 or in any way limit the rights of any State to obtain books,
21 accounts, memoranda, and other records under any other
22 Federal law, contract, or otherwise.

23 (e) COURT JURISDICTION.—Any United States dis-
24 trict court located in the State in which the State commis-



1 sion referred to in subsection (a) is located shall have ju-
2 risdiction to enforce compliance with this section.

3 **SEC. 16046. EXEMPTION AUTHORITY.**

4 (a) RULEMAKING.—Not later than 90 days after the
5 effective date of this subtitle, the Commission shall pro-
6 mulgate a final rule to exempt from the requirements of
7 section 16044 (relating to Federal access to books and
8 records) any person that is a holding company, solely with
9 respect to one or more—

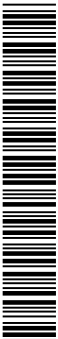
10 (1) qualifying facilities under the Public Utility
11 Regulatory Policies Act of 1978 (16 U.S.C. 2601 et
12 seq.);

13 (2) exempt wholesale generators; or

14 (3) foreign utility companies.

15 (b) OTHER AUTHORITY.—The Commission shall ex-
16 empt a person or transaction from the requirements of
17 section 16044 (relating to Federal access to books and
18 records) if, upon application or upon the motion of the
19 Commission—

20 (1) the Commission finds that the books, ac-
21 counts, memoranda, and other records of any person
22 are not relevant to the jurisdictional rates of a pub-
23 lic utility or natural gas company; or



1 (2) the Commission finds that any class of
2 transactions is not relevant to the jurisdictional
3 rates of a public utility or natural gas company.

4 **SEC. 16047. AFFILIATE TRANSACTIONS.**

5 (a) COMMISSION AUTHORITY UNAFFECTED.—Noth-
6 ing in this subtitle shall limit the authority of the Commis-
7 sion under the Federal Power Act (16 U.S.C. 791a et seq.)
8 to require that jurisdictional rates are just and reasonable,
9 including the ability to deny or approve the pass through
10 of costs, the prevention of cross-subsidization, and the pro-
11 mulgation of such rules and regulations as are necessary
12 or appropriate for the protection of utility consumers.

13 (b) RECOVERY OF COSTS.—Nothing in this subtitle
14 shall preclude the Commission or a State commission from
15 exercising its jurisdiction under otherwise applicable law
16 to determine whether a public utility company, public util-
17 ity, or natural gas company may recover in rates any costs
18 of an activity performed by an associate company, or any
19 costs of goods or services acquired by such public utility
20 company from an associate company.

21 **SEC. 16048. APPLICABILITY.**

22 Except as otherwise specifically provided in this sub-
23 title, no provision of this subtitle shall apply to, or be
24 deemed to include—

25 (1) the United States;



1 (2) a State or any political subdivision of a
2 State;

3 (3) any foreign governmental authority not op-
4 erating in the United States;

5 (4) any agency, authority, or instrumentality of
6 any entity referred to in paragraph (1), (2), or (3);
7 or

8 (5) any officer, agent, or employee of any entity
9 referred to in paragraph (1), (2), or (3) acting as
10 such in the course of his or her official duty.

11 **SEC. 16049. EFFECT ON OTHER REGULATIONS.**

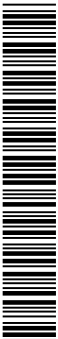
12 Nothing in this subtitle precludes the Commission or
13 a State commission from exercising its jurisdiction under
14 otherwise applicable law to protect utility customers.

15 **SEC. 16050. ENFORCEMENT.**

16 The Commission shall have the same powers as set
17 forth in sections 306 through 317 of the Federal Power
18 Act (16 U.S.C. 825e–825p) to enforce the provisions of
19 this subtitle.

20 **SEC. 16051. SAVINGS PROVISIONS.**

21 (a) IN GENERAL.—Nothing in this subtitle prohibits
22 a person from engaging in or continuing to engage in ac-
23 tivities or transactions in which it is legally engaged or
24 authorized to engage on the date of enactment of this Act,



1 so long as that person continues to comply with the terms
2 of any such authorization, whether by rule or by order.

3 (b) EFFECT ON OTHER COMMISSION AUTHORITY.—

4 Nothing in this subtitle limits the authority of the Com-
5 mission under the Federal Power Act (16 U.S.C. 791a et
6 seq.) (including section 301 of that Act) or the Natural
7 Gas Act (15 U.S.C. 717 et seq.) (including section 8 of
8 that Act).

9 **SEC. 16052. IMPLEMENTATION.**

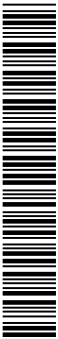
10 Not later than 12 months after the date of enactment
11 of this subtitle, the Commission shall—

12 (1) promulgate such regulations as may be nec-
13 essary or appropriate to implement this subtitle
14 (other than section 16045, relating to State access
15 to books and records); and

16 (2) submit to the Congress detailed rec-
17 ommendations on technical and conforming amend-
18 ments to Federal law necessary to carry out this
19 subtitle and the amendments made by this subtitle.

20 **SEC. 16053. TRANSFER OF RESOURCES.**

21 All books and records that relate primarily to the
22 functions transferred to the Commission under this sub-
23 title shall be transferred from the Securities and Exchange
24 Commission to the Commission.



1 **SEC. 16054. EFFECTIVE DATE.**

2 This subtitle shall take effect 12 months after the
3 date of enactment of this subtitle.

4 **SEC. 16055. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated such funds
6 as may be necessary to carry out this subtitle.

7 **SEC. 16056. CONFORMING AMENDMENTS TO THE FEDERAL**
8 **POWER ACT.**

9 (a) CONFLICT OF JURISDICTION.—Section 318 of the
10 Federal Power Act (16 U.S.C. 825q) is repealed.

11 (b) DEFINITIONS.—(1) Section 201(g)(5) of the Fed-
12 eral Power Act (16 U.S.C. 824(g)(5)) is amended by strik-
13 ing “1935” and inserting “2003”.

14 (2) Section 214 of the Federal Power Act (16 U.S.C.
15 824m) is amended by striking “1935” and inserting
16 “2003”.

17 **Subtitle E—PURPA Amendments**

18 **SEC. 16061. REAL-TIME PRICING AND TIME-OF-USE METER-**
19 **ING STANDARDS.**

20 (a) ADOPTION OF STANDARDS.—Section 111(d) of
21 the Public Utility Regulatory Policies Act of 1978 (16
22 U.S.C. 2621(d)) is amended by adding at the end the fol-
23 lowing:

24 “(11) REAL-TIME PRICING.—(A) Each electric
25 utility shall, at the request of an electric consumer,
26 provide electric service under a real-time rate sched-

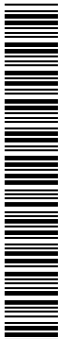


1 ule, under which the rate charged by the electric
2 utility varies by the hour (or smaller time interval)
3 according to changes in the electric utility's whole-
4 sale power cost. The real-time pricing service shall
5 enable the electric consumer to manage energy use
6 and cost through real-time metering and commu-
7 nications technology.

8 “(B) For purposes of implementing this para-
9 graph, any reference contained in this section to the
10 date of enactment of the Public Utility Regulatory
11 Policies Act of 1978 shall be deemed to be a ref-
12 erence to the date of enactment of this paragraph.

13 “(C) Notwithstanding subsections (b) and (c) of
14 section 112, each State regulatory authority shall
15 consider and make a determination concerning
16 whether it is appropriate to implement the standard
17 set out in subparagraph (A) not later than 1 year
18 after the date of enactment of this paragraph.

19 “(12) TIME-OF-USE METERING.—(A) Each elec-
20 tric utility shall, at the request of an electric con-
21 sumer, provide electric service under a time-of-use
22 rate schedule which enables the electric consumer to
23 manage energy use and cost through time-of-use me-
24 tering and technology.



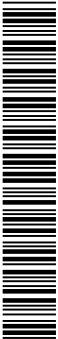
1 “(B) For purposes of implementing this para-
2 graph, any reference contained in this section to the
3 date of enactment of the Public Utility Regulatory
4 Policies Act of 1978 shall be deemed to be a ref-
5 erence to the date of enactment of this paragraph.

6 “(C) Notwithstanding subsections (b) and (c) of
7 section 112, each State regulatory authority shall
8 consider and make a determination concerning
9 whether it is appropriate to implement the standards
10 set out in subparagraph (A) not later than 1 year
11 after the date of enactment of this paragraph.”.

12 (b) SPECIAL RULES.—Section 115 of the Public Util-
13 ity Regulatory Policies Act of 1978 (16 U.S.C. 2625) is
14 amended by adding at the end the following:

15 “(i) REAL-TIME PRICING.—In a State that permits
16 third-party marketers to sell electric energy to retail elec-
17 tric consumers, the electric consumer shall be entitled to
18 receive the same real-time metering and communication
19 service as a direct retail electric consumer of the electric
20 utility.

21 “(j) TIME-OF-USE METERING.—In a State that per-
22 mits third-party marketers to sell electric energy to retail
23 electric consumers, the electric consumer shall be entitled
24 to receive the same time-of-use metering and communica-



1 tion service as a direct retail electric consumer of the elec-
2 tric utility.”.

3 **SEC. 16062. COGENERATION AND SMALL POWER PRODUC-**
4 **TION PURCHASE AND SALE REQUIREMENTS.**

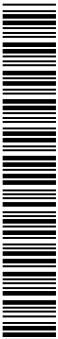
5 (a) TERMINATION OF MANDATORY PURCHASE AND
6 SALE REQUIREMENTS.—Section 210 of the Public Utility
7 Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is
8 amended by adding at the end the following:

9 “(m) TERMINATION OF MANDATORY PURCHASE AND
10 SALE REQUIREMENTS.—

11 “(1) OBLIGATION TO PURCHASE.—After the
12 date of enactment of this subsection, no electric util-
13 ity shall be required to enter into a new contract or
14 obligation to purchase electric energy from a quali-
15 fying cogeneration facility or a qualifying small
16 power production facility under this section if the
17 Commission finds that—

18 “(A) the qualifying cogeneration facility or
19 qualifying small power production facility has
20 access to

21 “(i) independently administered, auc-
22 tion-based day ahead and real time whole-
23 sale markets for the sale of electric energy,
24 and

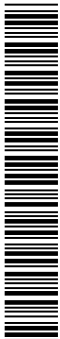


1 “(ii) long-term wholesale markets for
2 the sale of capacity and electric energy;

3 “(B) the qualifying cogeneration facility or
4 qualifying small power production facility has
5 access to a competitive wholesale market for the
6 sale of electric energy that provides such quali-
7 fying cogeneration facility or qualifying small
8 power production facility with opportunities to
9 sell electric energy that, at a minimum, are
10 comparable to the opportunities provided by the
11 markets, or some minimum combination there-
12 of, described in subparagraph (A); or

13 “(C) the qualifying cogeneration facility
14 does not meet criteria established by the Com-
15 mission pursuant to the rulemaking set forth in
16 subparagraph (n) and has not filed with the
17 Commission a notice of self-certification or an
18 application for Commission certification under
19 18 C.F.R. 292.207 prior to the date of enact-
20 ment of this subsection.

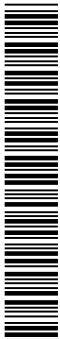
21 “(2) COMMISSION REVIEW.—(A) Any electric
22 utility may file an application with the Commission
23 for relief from the mandatory purchase obligation
24 pursuant to this subsection on a utility-wide basis.
25 Such application shall set forth the reasons why



1 such relief is appropriate and describe how the con-
2 ditions set forth in subparagraphs (A) and (B) of
3 paragraph (1) of this subsection have been met.

4 “(B) After notice, including sufficient notice to
5 potentially affected qualifying facilities, and an op-
6 portunity for comment, and within 90 days of the
7 filing of an application under subparagraph (A), the
8 Commission shall make a final determination as to
9 whether the conditions set forth in subparagraphs
10 (A) and (B) of paragraph (1) have been met. The
11 Commission shall not be authorized to issue a tolling
12 order regarding such application or otherwise delay
13 a final decision regarding such application.

14 “(3) REINSTATEMENT OF OBLIGATION TO PUR-
15 CHASE.—(A) At any time after the Commission
16 makes a finding under paragraph (2) relieving an
17 electric utility of its obligation to purchase electric
18 energy, a qualifying cogeneration facility or a quali-
19 fying small power production facility may apply to
20 the Commission for an order reinstating the electric
21 utility’s obligation to purchase electric energy under
22 this section. Such application shall set forth the rea-
23 sons why such relief is no longer appropriate and de-
24 scribe how the tests set forth in subparagraphs (A)

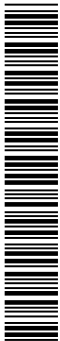


1 and (B) of paragraph (1) of this subsection are no
2 longer met.

3 “(B) After notice, including sufficient notice to
4 potentially affected utilities, and opportunity for
5 comment, and within 90 days of the filing of an ap-
6 plication under subparagraph (A), the Commission
7 shall issue an order reinstating the electric utility’s
8 obligation to purchase electric energy under this sec-
9 tion if the Commission finds that the condition in
10 paragraph (1), which relieved the obligation to pur-
11 chase, is no longer met. The Commission shall not
12 be authorized to issue a tolling order regarding such
13 application or otherwise delay a final decision re-
14 garding such application.

15 “(4) OBLIGATION TO SELL.—After the date of
16 enactment of this subsection, no electric utility shall
17 be required to enter into a new contract or obliga-
18 tion to sell electric energy to a qualifying cogenera-
19 tion facility or a qualifying small power production
20 facility if—

21 “(A) competing retail electric suppliers are
22 willing and able to provide electric energy to the
23 qualifying cogeneration facility or qualifying
24 small power production facility, and



1 “(B) the electric utility is not required by
2 State law to sell electric energy in its service
3 territory.

4 “(5) NO EFFECT ON EXISTING RIGHTS AND
5 REMEDIES.—Nothing in this subsection affects the
6 rights or remedies of any party under any contract
7 or obligation, in effect or pending approval before
8 the appropriate State regulatory authority or non-
9 regulated electric utility on the date of enactment of
10 this subsection, to purchase electric energy or capac-
11 ity from or to sell electric energy or capacity to a
12 facility under this Act (including the right to recover
13 costs of purchasing electric energy or capacity).

14 “(6) RECOVERY OF COSTS.—

15 “(A) REGULATION.—To ensure recovery
16 by an electric utility that purchases electric en-
17 ergy or capacity from a qualifying facility pur-
18 suant to any legally enforceable obligation en-
19 tered into or imposed under this section of all
20 prudently incurred costs associated with the
21 purchases, the Commission shall issue and en-
22 force such regulations as may be required to en-
23 sure that the electric utility shall recover the
24 prudently incurred costs associated with such
25 purchases.



1 “(B) ENFORCEMENT.—A regulation under
2 subparagraph (A) shall be enforceable in ac-
3 cordance with the provisions of law applicable
4 to enforcement of regulations under the Federal
5 Power Act (16 U.S.C. 791a et seq.).

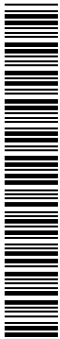
6 “(n) RULEMAKING FOR NEW FACILITIES.—

7 “(1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of this subsection, the
9 Commission shall issue a rule revising the criteria
10 for qualifying cogeneration facilities in 18 C.F.R.
11 292.205. In particular, the Commission shall evalu-
12 ate the rules regarding qualifying facility criteria
13 and revise such rules, as necessary, to ensure—

14 “(A) that the thermal energy output of a
15 new qualifying cogeneration facility is used in a
16 productive and beneficial manner;

17 “(B) the electrical and thermal output of
18 the cogeneration facility is used predominantly
19 for commercial or industrial processes and not
20 intended predominantly for sale to an electric
21 utility; and

22 “(C) continuing progress in the develop-
23 ment of efficient electric energy generating
24 technology.



1 “(2) APPLICABILITY.—Any revisions made to
2 operating and efficiency standards shall be applica-
3 ble only to a cogeneration facility that—

4 “(A) was not a qualifying cogeneration fa-
5 cility, or

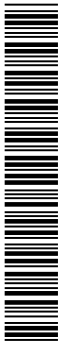
6 “(B) had not filed with the Commission a
7 notice of self-certification or an application for
8 Commission certification under 18 C.F.R.
9 292.207
10 prior to the date of enactment of this subsection.

11 “(3) DEFINITION.—For purposes of this sub-
12 section, the term ‘commercial processes’ includes
13 uses of thermal and electric energy for educational
14 and healthcare facilities.

15 “(o) RULES FOR EXISTING FACILITIES.— Notwith-
16 standing rule revisions under subsection (n), the Commis-
17 sion’s rules in effect prior to the effective date of any re-
18 vised rules prescribed under subsection (n) shall continue
19 to apply to any cogeneration facility or small power pro-
20 duction facility that—

21 “(1) was a qualifying cogeneration facility or a
22 qualifying small power production facility, or

23 “(2) had filed with the Commission a notice of
24 self-certification or an application for Commission
25 certification under 18 C.F.R. 292.207



1 prior to the date of enactment of subsections (m) and
2 (n).”.

3 (b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

4 (1) Section 3(17)(C) of the Federal Power Act (16 U.S.C.
5 796(17)(C)) is amended to read as follows:

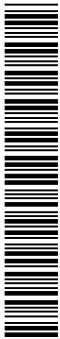
6 “(C) ‘qualifying small power production fa-
7 cility’ means a small power production facility
8 that the Commission determines, by rule, meets
9 such requirements (including requirements re-
10 specting minimum size, fuel use, and fuel effi-
11 ciency) as the Commission may, by rule, pre-
12 scribe.”.

13 (2) Section 3(18)(B) of the Federal Power Act (16
14 U.S.C. 796(18)(B)) is amended to read as follows:

15 “(B) ‘qualifying cogeneration facility’
16 means a cogeneration facility that the Commis-
17 sion determines, by rule, meets such require-
18 ments (including requirements respecting min-
19 imum size, fuel use, and fuel efficiency) as the
20 Commission may, by rule, prescribe.”.

21 **SEC. 16063. SMART METERING.**

22 (a) IN GENERAL.—Section 111(d) of the Public Utili-
23 ties Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))
24 is amended by adding at the end the following:



1 “(13) TIME-BASED METERING AND COMMU-
2 NICATIONS.—(A) Not later than eighteen (18)
3 months after the date of enactment of this para-
4 graph, each electric utility shall offer each of its cus-
5 tomer classes, and provide individual customers upon
6 customer request, a time-based rate schedule under
7 which the rate charged by the electric utility varies
8 during different time periods and reflects the vari-
9 ance in the costs of generating and purchasing elec-
10 tricity at the wholesale level. The time-based rate
11 schedule shall enable the electric consumer to man-
12 age energy use and cost through advanced metering
13 and communications technology.

14 “(B) The types of time-based rate schedules
15 that may be offered under the schedule referred to
16 in subparagraph (A) include, among others, each the
17 following:

18 “(i) Time-Of-Use pricing whereby elec-
19 tricity prices are set for a specific time period
20 on an advance or forward basis, typically not
21 changing more often than twice a year. Prices
22 paid for energy consumed during these periods
23 shall be pre-established and known to con-
24 sumers in advance of such consumption, allow-
25 ing them to vary their demand and usage in re-



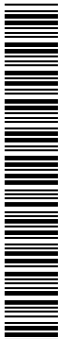
1 sponse to such prices and manage their energy
2 costs by shifting usage to a lower cost period or
3 reducing their consumption overall.

4 “(ii) Critical Peak Pricing whereby time-
5 of-use prices are in effect except for certain
6 peak days, when prices may reflect the costs of
7 generating and purchasing electricity at the
8 wholesale level and when consumers may receive
9 additional discounts for reducing peak period
10 energy consumption.

11 “(iii) Real-Time pricing whereby electricity
12 prices are set for a specific time period on an
13 advanced or forward basis and may change as
14 often as hourly.

15 “(C) Each electric utility subject to subpara-
16 graph (A) shall provide each customer requesting a
17 time-based rate with a time-based meter capable of
18 enabling the utility and customer to offer and re-
19 ceive such rate, respectively.

20 “(D) For purposes of implementing this para-
21 graph, any reference contained in this section to the
22 date of enactment of the Public Utility Regulatory
23 Policies Act of 1978 shall be deemed to be a ref-
24 erence to the date of enactment of this paragraph.



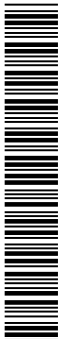
1 “(E) In a State that permits third-party mar-
2 keters to sell electric energy to retail electric con-
3 sumers, such consumers shall be entitled to receive
4 that same time-based metering and communications
5 device and service as a retail electric consumer of
6 the electric utility.

7 “(F) Notwithstanding subsections (b) and (c) of
8 section 112, each State regulatory authority shall,
9 not later than twelve (12) months after enactment
10 of this paragraph conduct an investigation in accord-
11 ance with section 115(i) and issue a decision wheth-
12 er it is appropriate to implement the standards set
13 out in subparagraphs (A) and (C).”.

14 (b) STATE INVESTIGATION OF DEMAND RESPONSE
15 AND TIME-BASED METERING.—

16 Section 115 of the Public Utilities Regulatory Poli-
17 cies Act of 1978 (16 U.S.C. 2625) is amended by adding
18 the at the end the following:

19 “(k) TIME-BASED METERING AND COMMUNICA-
20 TIONS.—Each State regulatory authority shall, not later
21 than twelve (12) months after enactment of this sub-
22 section, conduct an investigation and issue a decision
23 whether or not it is appropriate for electric utilities to pro-
24 vide and install time-based meters and communications
25 devices for each of their customers which enable such cus-



1 tomers to participate in time-based pricing rate schedules
2 and other demand response programs.”.

3 (c) FEDERAL ASSISTANCE ON DEMAND RE-
4 SPONSE.—Section 132(a) of the Public Utility Regulatory
5 Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by
6 striking “and” at the end of paragraph (3), striking the
7 period at the end of paragraph (4) and inserting “; and”,
8 and by adding the following at the end thereof:

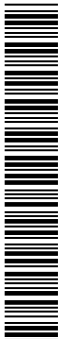
9 “(5) technologies, techniques and rate-making
10 methods related to advanced metering and commu-
11 nications and the use of these technologies, tech-
12 niques and methods in demand response programs.”.

13 (d) FEDERAL GUIDANCE.—Section 132 of the Public
14 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2643)
15 is amended by adding the following at the end thereof:

16 “(d) DEMAND RESPONSE.—The Secretary shall be
17 responsible for each of the following:

18 “(1) Educating consumers on the availability,
19 advantages and benefits of advanced metering and
20 communications technologies including the funding
21 of demonstration or pilot projects.

22 “(2) Working with States, utilities, other energy
23 providers and advanced metering and communica-
24 tions experts to identify and address barriers to the
25 adoption of demand response programs, and



1 “(3) Within 6 months of enactment, provide the
2 Congress with a report that identifies and quantifies
3 the national benefits of demand response and pro-
4 vides policy recommendations as to how to achieve
5 specific levels of such benefits by January 1, 2005.”.

6 (e) DEMAND RESPONSE AND REGIONAL COORDINA-
7 TION.—

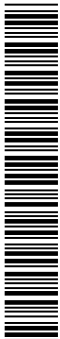
8 (1) POLICY.—It is the policy of the United
9 States to encourage States to coordinate, on a re-
10 gional basis, State energy policies to provide reliable
11 and affordable demand response services to the pub-
12 lic.

13 (2) TECHNICAL ASSISTANCE.—The Secretary
14 of Energy shall provide technical assistance to
15 States and regional organizations formed by two or
16 more States to assist them in—

17 (A) identifying the areas with the greatest
18 demand response potential;

19 (B) identifying and resolving problems in
20 transmission and distribution networks, includ-
21 ing through the use of demand response; and

22 (C) developing plans and programs to use
23 demand response to respond to peak demand or
24 emergency needs.



1 (3) REPORT.—The Federal Energy Regulatory
2 Commission shall prepare and publish an annual re-
3 port, by appropriate region, that assesses demand
4 response resources, including those available from all
5 consumer classes, and which identifies and reviews
6 each of the following:

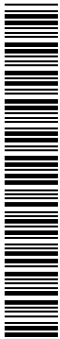
7 (A) Saturation and penetration rate of ad-
8 vanced meters and communications tech-
9 nologies, devices and systems.

10 (B) Existing demand response programs
11 and time-based rate programs.

12 (C) The annual resource contribution of
13 demand resources, including the prior year and
14 following years.

15 (D) The potential for demand response as
16 a quantifiable, reliable resource for regional
17 planning purposes.

18 (E) Steps taken to ensure that, in regional
19 transmission planning and operations, that de-
20 mand resources are provided equitable treat-
21 ment as a quantifiable, reliable resource relative
22 to the resource obligations of any load-serving
23 entity, transmission provider or transmitting
24 party.



1 (f) COST RECOVERY OF DEMAND RESPONSE DE-
2 VICES.—It is the policy of the United States that time-
3 based pricing and other forms of demand response, where-
4 by electricity customers are provided with electricity price
5 signals and the ability to benefit by responding to them,
6 shall be encouraged and the deployment of such tech-
7 nology and devices that enable electricity customers to
8 participate in such pricing and demand response systems
9 shall be facilitated. It is further the policy of the United
10 States that the benefits of such demand response that ac-
11 crue to those not deploying such technology and devices,
12 but who are part of the same regional electricity entity,
13 shall be recognized.

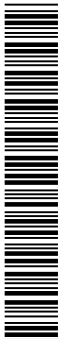
14 **Subtitle F—Renewable Energy**

15 **SEC. 16071. NET METERING.**

16 (a) ADOPTION OF STANDARD.—Section 111(d) of the
17 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
18 2621(d)) is amended by adding at the end the following:

19 “(14) NET METERING.—(A) Each electric util-
20 ity shall make available upon request net metering
21 service to any electric consumer that the electric
22 utility serves.

23 “(B) For purposes of implementing this para-
24 graph, any reference contained in this section to the
25 date of enactment of the Public Utility Regulatory



1 Policies Act of 1978 shall be deemed to be a ref-
2 erence to the date of enactment of this paragraph.

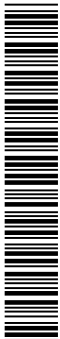
3 “(C) Notwithstanding subsections (b) and (c) of
4 section 112, each State regulatory authority shall
5 consider and make a determination concerning
6 whether it is appropriate to implement the standard
7 set out in subparagraph (A) not later than 1 year
8 after the date of enactment of this paragraph.”.

9 (b) SPECIAL RULES FOR NET METERING.—Section
10 115 of the Public Utility Regulatory Policies Act of 1978
11 (16 U.S.C. 2625) is amended by adding at the end the
12 following:

13 “(l) NET METERING.—In undertaking the consider-
14 ation and making the determination under section 111
15 with respect to the standard concerning net metering es-
16 tablished by section 111(d)(14), the term ‘net metering
17 service’ shall mean a service provided in accordance with
18 the following standards:

19 “(1) RATES AND CHARGES.—An electric
20 utility—

21 “(A) shall charge the owner or operator of
22 an on-site generating facility rates and charges
23 that are identical to those that would be
24 charged other electric consumers of the electric
25 utility in the same rate class; and

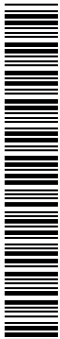


1 “(B) shall not charge the owner or oper-
2 ator of an on-site generating facility any addi-
3 tional standby, capacity, interconnection, or
4 other rate or charge.

5 “(2) MEASUREMENT.—An electric utility that
6 sells electric energy to the owner or operator of an
7 on-site generating facility shall measure the quantity
8 of electric energy produced by the on-site facility
9 and the quantity of electric energy consumed by the
10 owner or operator of an on-site generating facility
11 during a billing period in accordance with normal
12 metering practices.

13 “(3) ELECTRIC ENERGY SUPPLIED EXCEEDING
14 ELECTRIC ENERGY GENERATED.—If the quantity of
15 electric energy sold by the electric utility to an on-
16 site generating facility exceeds the quantity of elec-
17 tric energy supplied by the on-site generating facility
18 to the electric utility during the billing period, the
19 electric utility may bill the owner or operator for the
20 net quantity of electric energy sold, in accordance
21 with normal metering practices.

22 “(4) ELECTRIC ENERGY GENERATED EXCEED-
23 ING ELECTRIC ENERGY SUPPLIED.—If the quantity
24 of electric energy supplied by the on-site generating
25 facility to the electric utility exceeds the quantity of



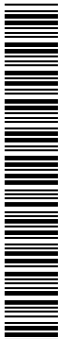
1 electric energy sold by the electric utility to the on-
2 site generating facility during the billing period—

3 “(A) the electric utility may bill the owner
4 or operator of the on-site generating facility for
5 the appropriate charges for the billing period in
6 accordance with paragraph (2); and

7 “(B) the owner or operator of the on-site
8 generating facility shall be credited for the ex-
9 cess kilowatt-hours generated during the billing
10 period, with the kilowatt-hour credit appearing
11 on the bill for the following billing period.

12 “(5) SAFETY AND PERFORMANCE STAND-
13 ARDS.—An eligible on-site generating facility and
14 net metering system used by an electric consumer
15 shall meet all applicable safety, performance, reli-
16 ability, and interconnection standards established by
17 the National Electrical Code, the Institute of Elec-
18 trical and Electronics Engineers, and Underwriters
19 Laboratories.

20 “(6) ADDITIONAL CONTROL AND TESTING RE-
21 QUIREMENTS.—The Commission, after consultation
22 with State regulatory authorities and nonregulated
23 electric utilities and after notice and opportunity for
24 comment, may adopt, by rule, additional control and
25 testing requirements for on-site generating facilities



1 and net metering systems that the Commission de-
2 termines are necessary to protect public safety and
3 system reliability.

4 “(7) DEFINITIONS.—For purposes of this sub-
5 section:

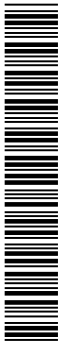
6 “(A) The term ‘eligible on-site generating
7 facility’ means—

8 “(i) a facility on the site of a residen-
9 tial electric consumer with a maximum
10 generating capacity of 10 kilowatts or less
11 that is fueled by solar energy, wind energy,
12 or fuel cells; or

13 “(ii) a facility on the site of a com-
14 mercial electric consumer with a maximum
15 generating capacity of 500 kilowatts or
16 less that is fueled solely by a renewable en-
17 ergy resource, landfill gas, or a high effi-
18 ciency system.

19 “(B) The term ‘renewable energy resource’
20 means solar, wind, biomass, or geothermal en-
21 ergy.

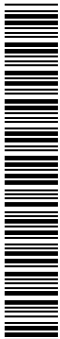
22 “(C) The term ‘high efficiency system’
23 means service fuel cells or combined heat and
24 power.



1 “(D) The term ‘net metering’ means serv-
2 ice to an electric consumer under which electric
3 energy generated by that electric consumer
4 from an eligible on-site generating facility and
5 delivered to the local distribution facilities may
6 be used to offset electric energy provided by the
7 electric utility to the electric consumer during
8 the applicable billing period.”

9 **SEC. 16072. RENEWABLE ENERGY PRODUCTION INCENTIVE.**

10 (a) INCENTIVE PAYMENTS.—Section 1212(a) of the
11 Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is
12 amended by striking “and which satisfies” and all that
13 follows through “Secretary shall establish.” and inserting
14 “. If there are insufficient appropriations to make full pay-
15 ments for electric production from all qualified renewable
16 energy facilities in any given year, the Secretary shall as-
17 sign 60 percent of appropriated funds for that year to fa-
18 cilities that use solar, wind, geothermal, or closed-loop
19 (dedicated energy crops) biomass technologies to generate
20 electricity, and assign the remaining 40 percent to other
21 projects. The Secretary may, after transmitting to the
22 Congress an explanation of the reasons therefor, alter the
23 percentage requirements of the preceding sentence.”.



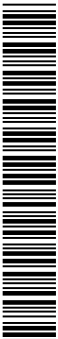
1 (b) QUALIFIED RENEWABLE ENERGY FACILITY.—
2 Section 1212(b) of the Energy Policy Act of 1992 (42
3 U.S.C. 13317(b)) is amended—

4 (1) by striking “a State or any political” and
5 all that follows through “nonprofit electrical cooper-
6 ative” and inserting “a not-for-profit electric cooper-
7 ative, a public utility described in section 115 of the
8 Internal Revenue Code of 1986, a State, Common-
9 wealth, territory, or possession of the United States
10 or the District of Columbia, or a political subdivision
11 thereof, or an Indian tribal government of subdivi-
12 sion thereof,”; and

13 (2) by inserting “landfill gas,” after “wind, bio-
14 mass,”.

15 (c) ELIGIBILITY WINDOW.—Section 1212(c) of the
16 Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is
17 amended by striking “during the 10-fiscal year period be-
18 ginning with the first full fiscal year occurring after the
19 enactment of this section” and inserting “after October
20 1, 2003, and before October 1, 2013”.

21 (d) AMOUNT OF PAYMENT.—Section 1212(e)(1) of
22 the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1))
23 is amended by inserting “landfill gas,” after “wind, bio-
24 mass,”.



1 (e) SUNSET.—Section 1212(f) of the Energy Policy
2 Act of 1992 (42 U.S.C. 13317(f)) is amended by striking
3 “the expiration of” and all that follows through “of this
4 section” and inserting “September 30, 2023”.

5 (f) AUTHORIZATION OF APPROPRIATIONS.—Section
6 1212(g) of the Energy Policy Act of 1992 (42 U.S.C.
7 13317(g)) is amended to read as follows:

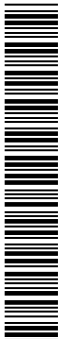
8 “(g) AUTHORIZATION OF APPROPRIATIONS.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 there are authorized to be appropriated such sums
11 as may be necessary to carry out this section for fis-
12 cal years 2003 through 2023.

13 “(2) AVAILABILITY OF FUNDS.—Funds made
14 available under paragraph (1) shall remain available
15 until expended.”.

16 **SEC. 16073. RENEWABLE ENERGY ON FEDERAL LANDS.**

17 (a) REPORT TO CONGRESS.—Within 24 months after
18 the date of enactment of this section, the Secretary of the
19 Interior, in cooperation with the Secretary of Agriculture,
20 shall develop and report to the Congress recommendations
21 on opportunities to develop renewable energy on public
22 lands under the jurisdiction of the Secretary of the Inte-
23 rior and National Forest System lands under the jurisdic-
24 tion of the Secretary of Agriculture. The report shall
25 include—



1 (1) 5-year plans developed by the Secretary of
2 the Interior and the Secretary of Agriculture, re-
3 spectively, for encouraging the development of wind
4 and solar energy consistent with applicable law and
5 management plans; and

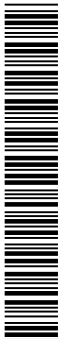
6 (2) an analysis of—

7 (A) the use of rights-of-ways, leases, or
8 other methods to develop wind and solar energy
9 on such lands;

10 (B) the anticipated benefits of grants,
11 loans, tax credits, or other provisions to pro-
12 mote wind and solar energy development on
13 such lands; and

14 (C) any issues that the Secretary of the
15 Interior or the Secretary of Agriculture have
16 encountered in managing wind or solar energy
17 projects on such lands, or believe are likely to
18 arise in relation to the development of wind or
19 solar energy on such lands;

20 (3) a list, developed in consultation with the
21 Secretary of Energy and the Secretary of Defense,
22 of lands under the jurisdiction of the Department of
23 Energy or Defense that would be suitable for devel-
24 opment for wind or solar energy, and any rec-



1 ommended statutory and regulatory mechanisms for
2 such development; and

3 (4) any recommendations pertaining to the
4 issues addressed in the report.

5 (b) NATIONAL ACADEMY OF SCIENCES STUDY.—

6 (1) IN GENERAL.—Within 90 days after the
7 date of the enactment of this Act, the Secretary of
8 the Interior shall contract with the National Acad-
9 emy of Sciences to—

10 (A) study the potential for the development
11 of wind, solar, and ocean energy on the Outer
12 Continental Shelf;

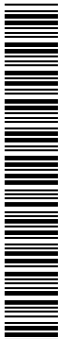
13 (B) assess existing Federal authorities for
14 the development of such resources; and

15 (C) recommend statutory and regulatory
16 mechanisms for such development.

17 (2) TRANSMITTAL OF RESULTS.—The results of
18 the study shall be transmitted to the Congress with-
19 in 24 months after the date of the enactment of this
20 Act.

21 **SEC. 16074. ASSESSMENT OF RENEWABLE ENERGY RE-**
22 **SOURCES.**

23 (a) RESOURCE ASSESSMENT.—Not later than 3
24 months after the date of enactment of this Act, and each
25 year thereafter, the Secretary of Energy shall review the

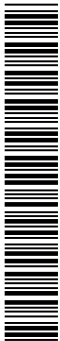


1 available assessments of renewable energy resources avail-
2 able within the United States, including solar, wind, bio-
3 mass, ocean, geothermal, and hydroelectric energy re-
4 sources, and undertake new assessments as necessary,
5 taking into account changes in market conditions, avail-
6 able technologies, and other relevant factors.

7 (b) CONTENTS OF REPORTS.—Not later than 1 year
8 after the date of enactment of this Act, and each year
9 thereafter, the Secretary shall publish a report based on
10 the assessment under subsection (a). The report shall
11 contain—

12 (1) a detailed inventory describing the available
13 amount and characteristics of the renewable energy
14 resources; and

15 (2) such other information as the Secretary be-
16 lieves would be useful in developing such renewable
17 energy resources, including descriptions of sur-
18 rounding terrain, population and load centers, near-
19 by energy infrastructure, location of energy and
20 water resources, and available estimates of the costs
21 needed to develop each resource, together with an
22 identification of any barriers to providing adequate
23 transmission for remote sources of renewable energy
24 resources to current and emerging markets, rec-
25 ommendations for removing or addressing such bar-



1 riers, and ways to provide access to the grid that do
2 not unfairly disadvantage renewable or other energy
3 producers.

4 **Subtitle G—Market Transparency,**
5 **Round Trip Trading Prohibi-**
6 **tion, and Enforcement**

7 **SEC. 16081. MARKET TRANSPARENCY RULES.**

8 Part II of the Federal Power Act is amended by add-
9 ing the following new section at the end thereof:

10 **“SEC. 219. MARKET TRANSPARENCY RULES.**

11 “(a) COMMISSION RULES.—Not later than 180 days
12 after the date of enactment of this section, the Commis-
13 sion shall issue rules establishing an electronic information
14 system to provide the Commission and the public with ac-
15 cess to such information as is necessary or appropriate
16 to facilitate price transparency and participation in mar-
17 kets subject to the Commission’s jurisdiction. Such sys-
18 tems shall provide information about the availability and
19 market price of sales of electric energy at wholesale in
20 interstate commerce and transmission of electric energy
21 in interstate commerce to the Commission, State commis-
22 sions, buyers and sellers of wholesale electric energy, users
23 of transmission services, and the public on a timely basis.
24 The Commission shall have authority to obtain such infor-
25 mation from any person, and any entity described in sec-



1 tion 201(f), who sells electric energy at wholesale in inter-
2 state commerce or provides transmission services in inter-
3 state commerce.

4 “(b) EXEMPTIONS.—The Commission shall exempt
5 from disclosure information it determines would, if dis-
6 closed, (1) be detrimental to the operation of an effective
7 market; or (2) jeopardize system security. This section
8 shall not apply to an entity described in section
9 212(k)(2)(B) with respect to transactions for the purchase
10 or sale of wholesale electric energy and transmission serv-
11 ices within the area described in section 212(k)(2)(A).”.

12 **SEC. 16082. PROHIBITION ON ROUND TRIP TRADING.**

13 Part II of the Federal Power Act is amended by add-
14 ing the following new section at the end thereof:

15 **“SEC. 220. PROHIBITION ON ROUND TRIP TRADING.**

16 “(a) PROHIBITION.—It shall be a violation of this Act
17 for any person, and any entity described in section 201(f),
18 willfully and knowingly to enter into any contract or other
19 arrangement to execute a round-trip trade for the pur-
20 chase or sale of electric energy at wholesale.

21 “(b) DEFINITION OF ROUND-TRIP TRADE.—For the
22 purposes of this section, the term ‘round-trip trade’ means
23 a transaction, or combination of transactions, in which a
24 person or other entity—



1 “(1) enters into a contract or other arrange-
2 ment to purchase from, or sell to, any other person
3 or other entity electric energy at wholesale;

4 “(2) simultaneously with entering into the con-
5 tract described in paragraph (1), arranges a finan-
6 cially offsetting trade with such other person or enti-
7 ty for the same quantity of electric energy so that,
8 collectively, the purchase and sale transactions in
9 themselves result in no financial gain or loss; and

10 “(3) has a specific intent to distort reported
11 revenues, trading volumes, or prices.”.

12 **SEC. 16083. CONFORMING CHANGES.**

13 Section 201(e) of the Federal Power Act is amended
14 by striking “or 212” and inserting “212, 215, 216, 217,
15 218, 219, or 220”. Section 201(b)(2) of such Act is
16 amended by striking “and 212” and inserting “212, 215,
17 216, 217, 218, 219, and 220”.

18 **SEC. 16084. ENFORCEMENT.**

19 (a) COMPLAINTS.—Section 306 of the Federal Power
20 Act (16 U.S.C. 825e) is amended by—

21 (1) inserting “electric utility,” after “Any per-
22 son,”; and

23 (2) inserting “, transmitting utility,” after “li-
24 censee” each place it appears.



1 (b) REVIEW OF COMMISSION ORDERS.—Section
2 313(a) of the Federal Power Act (16 U.S.C. 8251) is
3 amended by inserting “electric utility,” after “person,” in
4 the first place it appears and by striking “any person un-
5 less such person” and inserting “any entity unless such
6 entity”.

7 (c) CRIMINAL PENALTIES.—Section 316 of the Fed-
8 eral Power Act (16 U.S.C. 825o) is amended—

9 (1) in subsection (a), by striking “\$5,000” and
10 inserting “\$1,000,000”, and by striking “two years”
11 and inserting “five years”;

12 (2) in subsection (b), by striking “\$500” and
13 inserting “\$25,000”; and

14 (3) by striking subsection (c).

15 (d) CIVIL PENALTIES.—Section 316A of the Federal
16 Power Act (16 U.S.C. 825–1) is amended—

17 (1) in subsections (a) and (b), by striking “sec-
18 tion 211, 212, 213, or 214” each place it appears
19 and inserting “Part II”; and

20 (2) in subsection (b), by striking “\$10,000”
21 and inserting “\$1,000,000”.

22 **Subtitle H—Consumer Protections**

23 **SEC. 16091. REFUND EFFECTIVE DATE.**

24 Section 206(b) of the Federal Power Act (16 U.S.C.
25 824e(b)) is amended by—



1 (1) striking “the date 60 days after the filing
2 of such complaint nor later than 5 months after the
3 expiration of such 60-day period” in the second sen-
4 tence and inserting “the date of the filing of such
5 complaint nor later than 5 months after the filing of
6 such complaint”;

7 (2) striking “60 days after” in the third sen-
8 tence and inserting “of”;

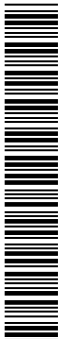
9 (3) striking “expiration of such 60-day period”
10 in the third sentence and inserting “publication
11 date”; and

12 (4) in the fifth sentence after “rendered by the”
13 insert “date 60 days after the”.

14 **SEC. 16092. JURISDICTION OVER INTERSTATE SALES.**

15 (a) SCOPE OF AUTHORITY.—Section 206 of the Fed-
16 eral Power Act (16 U.S.C. 824e) is amended by adding
17 the following new subsection at the end thereof:

18 “(e)(1) If an entity that is not a public utility (includ-
19 ing an entity referred to in section 201(f)) voluntarily
20 makes a spot market sale of electric energy and such sale
21 violates Commission rules in effect at the time of such
22 sale, such entity shall be subject to the Commission’s re-
23 fund authority under this section with respect to such vio-
24 lation.



1 “(2) This section shall not apply to any entity that
2 is either—

3 “(A) an entity described in section 201(f); or

4 “(B) a rural electric cooperative

5 that does not sell more than 4,000,000 megawatt hours
6 of electricity per year.

7 “(3) For purposes of this subsection, the term ‘spot
8 market sale’ means an agreement for the sale of electric
9 energy at wholesale in interstate commerce that is for 24
10 hours or less and that is entered into the day of, or the
11 day prior to, delivery.”.

12 (b) CONFORMING AMENDMENTS.—(1) Section 206 of
13 the Federal Power Act (16 U.S.C. 824e) is amended as
14 follows:

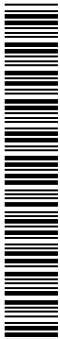
15 (A) In subsection (b), in the seventh sentence,
16 by striking “the public utility to make”.

17 (B) In the first sentence of subsection (a), by
18 striking “hearing had” and inserting “hearing held”.

19 (2) Section 201(b)(2) of such Act (16 U.S.C.
20 824(b)(2)) is amended as follows:

21 (A) In the first sentence by striking “sections
22 210” and inserting “sections 206(f), 210”.

23 (B) In the second sentence by striking “section
24 210” and inserting “section 206(f), 210,”.



1 (3) Section 201(e) of the Federal Power Act is
2 amended by striking “section 210” and inserting “section
3 206(f), 210”.

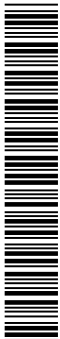
4 (c) UNIFORM INVESTIGATION AUTHORITY.—Section
5 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is
6 amended as follows:

7 (1) By inserting “, electric utility, transmitting
8 utility, or other entity” after “person” each time it
9 appears.

10 (2) By striking the period at the end of the
11 first sentence and inserting the following: “or in ob-
12 taining information about the sale of electric energy
13 at wholesale in interstate commerce and the trans-
14 mission of electric energy in interstate commerce.”.

15 (d) SANCTITY OF CONTRACT.—(1) The Federal En-
16 ergy Regulatory Commission shall have no authority to ab-
17rogate or modify any provision of a contract, except upon
18 a finding, after notice and opportunity for a hearing, that
19 such action is necessary to protect the public interest, un-
20 less such contract expressly provides for a different stand-
21 ard of review.

22 (2) For purposes of this subsection, a contract is any
23 agreement, in effect and subject to the jurisdiction of the
24 Commission—



1 (A) under section 4 of the Natural Gas Act or
2 section 205 of the Federal Power Act; and

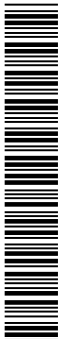
3 (B) that is not for sales in an organized ex-
4 change or auction spot market.

5 (3) This subsection shall not apply to any contract
6 executed before the date of enactment of this section un-
7 less such contract is an interconnection agreement, nor
8 shall this subsection affect the outcome in any proceeding
9 regarding any contract for sales of electric power executed
10 before the date of enactment of this section.

11 **SEC. 16093. CONSUMER PRIVACY.**

12 (a) IN GENERAL.—The Federal Trade Commission
13 shall issue rules protecting the privacy of electric con-
14 sumers from the disclosure of consumer information ob-
15 tained in connection with the sale or delivery of electric
16 energy to electric consumers. The Federal Trade Commis-
17 sion shall proceed in accordance with section 553 of title
18 5, United States Code, when prescribing a rule under this
19 section.

20 (b) STATE AUTHORITY.—If the Federal Trade Com-
21 mission determines that a State's regulations provide
22 equivalent or greater protection than the provisions of this
23 section, such State regulations shall apply in that State
24 in lieu of the regulations issued by the Commission under
25 this section.



1 **SEC. 16094. UNFAIR TRADE PRACTICES.**

2 (a) SLAMMING.—The Federal Trade Commission
3 shall issue rules prohibiting the change of selection of an
4 electric utility except with the informed consent of the
5 electric consumer or if approved by the appropriate State
6 regulatory authority.

7 (b) CRAMMING.—The Federal Trade Commission
8 shall issue rules prohibiting the sale of goods and services
9 to an electric consumer unless expressly authorized by law
10 or the electric consumer.

11 (c) RULEMAKING.—The Federal Trade Commission
12 shall proceed in accordance with section 553 of title 5,
13 United States Code, when prescribing a rule under this
14 section.

15 (d) STATE AUTHORITY.—If the Federal Trade Com-
16 mission determines that a State's regulations provide
17 equivalent or greater protection than the provisions of this
18 section, such State regulations shall apply in that State
19 in lieu of the regulations issued by the Commission under
20 this section.

21 **Subtitle I—Merger Review Reform**
22 **and Accountability**

23 **SEC. 16101. MERGER REVIEW REFORM AND ACCOUNT-**
24 **ABILITY.**

25 (a) MERGER REVIEW REFORM.—Within 180 days
26 after the date of enactment of this Act, the Secretary of



1 Energy, in consultation with the Federal Energy Regu-
2 latory Commission and the Department of Justice, shall
3 prepare, and transmit to the Committee on Energy and
4 Commerce of the House of Representatives and the Com-
5 mittee on Energy and Natural Resources of the Senate
6 each of the following:

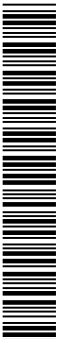
7 (1) A study of the extent to which the authori-
8 ties vested in the Federal Energy Regulatory Com-
9 mission under section 203 of the Federal Power Act
10 are duplicative of authorities vested in—

11 (A) other agencies of Federal and State
12 government; and

13 (B) the Federal Energy Regulatory Com-
14 mission, including under sections 205 and 206
15 of the Federal Power Act.

16 (2) Recommendations on reforms to the Fed-
17 eral Power Act that would eliminate any unneces-
18 sary duplication in the exercise of regulatory author-
19 ity or unnecessary delays in the approval (or dis-
20 approval) of applications for the sale, lease, or other
21 disposition of public utility facilities.

22 (b) MERGER REVIEW ACCOUNTABILITY.—Not later
23 than 1 year after the date of enactment of this Act and
24 annually thereafter, with respect to all orders issued with-
25 in the preceding year that impose a condition on a sale,



1 lease, or other disposition of public utility facilities under
2 section 203(b) of the Federal Power Act, the Federal En-
3 ergy Regulatory Commission shall transmit a report to the
4 Committee on Energy and Commerce of the House of
5 Representatives and the Committee on Energy and Nat-
6 ural Resources of the Senate explaining each of the fol-
7 lowing:

8 (1) The condition imposed.

9 (2) Whether the Commission could have im-
10 posed such condition by exercising its authority
11 under any provision of the Federal Power Act other
12 than under section 203(b).

13 (3) If the Commission could not have imposed
14 such condition other than under section 203(b), why
15 the Commission determined that such condition was
16 consistent with the public interest.

17 **Subtitle J—Study of Economic**
18 **Dispatch**

19 **SEC. 16111. STUDY ON THE BENEFITS OF ECONOMIC DIS-**
20 **PATCH.**

21 (a) STUDY.—The Secretary of Energy, in coordina-
22 tion and consultation with the States, shall conduct a
23 study on—

24 (1) the procedures currently used by electric
25 utilities to perform economic dispatch,



1 (2) identifying possible revisions to those proce-
2 dures to improve the ability of nonutility generation
3 resources to offer their output for sale for the pur-
4 pose of inclusion in economic dispatch; and

5 (3) the potential benefits to residential, com-
6 mercial, and industrial electricity consumers nation-
7 ally and in each state if economic dispatch proce-
8 dures were revised to improve the ability of non-
9 utility generation resources to offer their output for
10 inclusion in economic dispatch.

11 (b) DEFINITION.—The term “economic dispatch”
12 when used in this section means the operation of genera-
13 tion facilities to produce energy at the lowest cost to reli-
14 ably serve consumers, recognizing any operational limits
15 of generation and transmission facilities.

16 (c) REPORT TO CONGRESS AND THE STATES.—Not
17 later than 90 days after the date of enactment of this Act,
18 and on a yearly basis following, the Secretary of Energy
19 shall submit a report to the Congress and the States on
20 the results of the study conducted under subsection (a),
21 including recommendations to the Congress and the States
22 for any suggested legislative or regulatory changes.



1 **TITLE VII—MOTOR FUELS**

2 **Subtitle A—General Provisions**

3 **SEC. 17101. RENEWABLE CONTENT OF MOTOR VEHICLE**

4 **FUEL.**

5 (a) IN GENERAL.—Section 211 of the Clean Air Act
6 (42 U.S.C. 7545) is amended—

7 (1) by redesignating subsection (o) as sub-
8 section (q); and

9 (2) by inserting after subsection (n) the fol-
10 lowing:

11 “(o) RENEWABLE FUEL PROGRAM.—

12 “(1) DEFINITIONS.—In this section:

13 “(A) CELLULOSIC BIOMASS ETHANOL.—

14 The term ‘cellulosic biomass ethanol’ means
15 ethanol derived from any lignocellulosic or
16 hemicellulosic matter that is available on a re-
17 newable or recurring basis, including—

18 “(i) dedicated energy crops and trees;

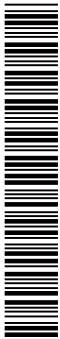
19 “(ii) wood and wood residues;

20 “(iii) plants;

21 “(iv) grasses;

22 “(v) agricultural residues;

23 “(vi) fibers;



1 “(vii) animal wastes, including poultry
2 fats and poultry wastes, and other waste
3 materials; and

4 “(viii) municipal solid waste.

5 “(B) RENEWABLE FUEL.—

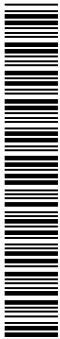
6 “(i) IN GENERAL.—The term ‘renew-
7 able fuel’ means motor vehicle fuel that—

8 “(I)(aa) is produced from grain,
9 starch, oilseeds, or other biomass; or

10 “(bb) is natural gas produced
11 from a biogas source, including a
12 landfill, sewage waste treatment plant,
13 feedlot, or other place where decaying
14 organic material is found; and

15 “(II) is used to replace or reduce
16 the quantity of fossil fuel present in a
17 fuel mixture used to operate a motor
18 vehicle.

19 “(ii) INCLUSION.—The term ‘renew-
20 able fuel’ includes cellulosic biomass eth-
21 anol and biodiesel (as defined in section
22 312(f) of the Energy Policy Act of 1992
23 (42 U.S.C. 13220(f)) and any blending
24 components derived from renewable fuel
25 (provided that only the renewable fuel por-

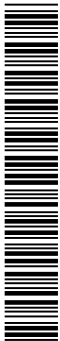


1 tion of any such blending component shall
2 be considered part of the applicable volume
3 under the renewable fuel program estab-
4 lished by this subsection).

5 “(C) SMALL REFINERY.—The term ‘small
6 refinery’ means a refinery for which average ag-
7 gregate daily crude oil throughput for the cal-
8 endar year (as determined by dividing the ag-
9 gregate throughput for the calendar year by the
10 number of days in the calendar year) does not
11 exceed 75,000 barrels.

12 “(2) RENEWABLE FUEL PROGRAM.—

13 “(A) IN GENERAL.—Not later than 1 year
14 from enactment of this provision, the Adminis-
15 trator shall promulgate regulations ensuring
16 that gasoline sold or dispensed to consumers in
17 the contiguous United States, on an annual av-
18 erage basis, contains the applicable volume of
19 renewable fuel as specified in subparagraph
20 (B). Regardless of the date of promulgation,
21 such regulations shall contain compliance provi-
22 sions for refiners, blenders, and importers, as
23 appropriate, to ensure that the requirements of
24 this section are met, but shall not restrict where
25 renewables can be used, or impose any per-gal-



1 lon obligation for the use of renewables. If the
 2 Administrator does not promulgate such regula-
 3 tions, the applicable percentage, on a volume
 4 percentage of gasoline basis, shall be 1.62 in
 5 2005.

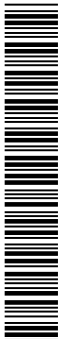
6 “(B) APPLICABLE VOLUME.—

7 “(i) CALENDAR YEARS 2005 THROUGH
 8 2015.—For the purpose of subparagraph
 9 (A), the applicable volume for any of cal-
 10 endar years 2005 through 2015 shall be
 11 determined in accordance with the fol-
 12 lowing table:

Applicable volume of renewable fuel

“Calendar year:	(In billions of gallons)
2005	2.7
2006	2.7
2007	2.9
2008	2.9
2009	3.4
2010	3.4
2011	3.4
2012	4.2
2013	4.2
2014	4.2
2015	5.0.

13 “(ii) CALENDAR YEAR 2016 AND
 14 THEREAFTER.—For the purpose of sub-
 15 paragraph (A), the applicable volume for
 16 calendar year 2016 and each calendar year
 17 thereafter shall be equal to the product ob-
 18 tained by multiplying—



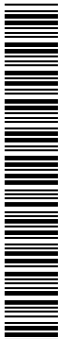
1 “(I) the number of gallons of
2 gasoline that the Administrator esti-
3 mates will be sold or introduced into
4 commerce in the calendar year; and

5 “(II) the ratio that—

6 “(aa) 5.0 billion gallons of
7 renewable fuels; bears to

8 “(bb) the number of gallons
9 of gasoline sold or introduced
10 into commerce in calendar year
11 2015.

12 “(3) APPLICABLE PERCENTAGES.—Not later
13 than October 31 of each calendar year after 2002,
14 the Administrator of the Energy Information Ad-
15 ministration shall provide the Administrator an esti-
16 mate of the volumes of gasoline sales in the United
17 States for the coming calendar year. Based on such
18 estimates, the Administrator shall, by November 30
19 of each calendar year after 2003, determine and
20 publish in the Federal Register, the renewable fuel
21 obligation, on a volume percentage of gasoline basis,
22 applicable to refiners, blenders, and importers, as
23 appropriate, for the coming calendar year, to ensure
24 that the requirements of paragraph (2) are met. For
25 each calendar year, the Administrator shall establish

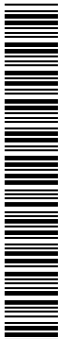


1 a single applicable percentage that applies to all par-
2 ties, and make provision to avoid redundant obliga-
3 tions. In determining the applicable percentages, the
4 Administrator shall make adjustments to account for
5 the use of renewable fuels by exempt small refineries
6 during the previous year.

7 “(4) CELLULOSIC BIOMASS ETHANOL.—For the
8 purpose of paragraph (2), 1 gallon of cellulosic bio-
9 mass ethanol shall be considered to be the equivalent
10 of 1.5 gallon of renewable fuel.

11 “(5) CREDIT PROGRAM.—

12 “(A) IN GENERAL.—The regulations pro-
13 mulgated to carry out this subsection shall pro-
14 vide for the generation of an appropriate
15 amount of credits by any person that refines,
16 blends, or imports gasoline that contains a
17 quantity of renewable fuel that is greater than
18 the quantity required under paragraph (2).
19 Such regulations shall provide for the genera-
20 tion of an appropriate amount of credits for
21 biodiesel fuel. If a small refinery notifies the
22 Administrator that it waives the exemption pro-
23 vided by this Act, the regulations shall provide
24 for the generation of credits by the small refin-



1 ery beginning in the year following such notifi-
2 cation.

3 “(B) USE OF CREDITS.—A person that
4 generates credits under subparagraph (A) may
5 use the credits, or transfer all or a portion of
6 the credits to another person, for the purpose
7 of complying with paragraph (2).

8 “(C) LIFE OF CREDITS.—A credit gen-
9 erated under this paragraph shall be valid to
10 show compliance:

11 “(i) in the calendar year in which the
12 credit was generated or the next calendar
13 year, or

14 “(ii) in the calendar year in which the
15 credit was generated or next two consecu-
16 tive calendar years if the Administrator
17 promulgates regulations under paragraph
18 (6).

19 “(D) INABILITY TO PURCHASE SUFFICIENT
20 CREDITS.—The regulations promulgated to
21 carry out this subsection shall include provi-
22 sions allowing any person that is unable to gen-
23 erate or purchase sufficient credits to meet the
24 requirements under paragraph (2) to carry for-
25 ward a renewables deficit provided that, in the

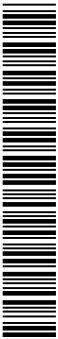


1 calendar year following the year in which the
2 renewables deficit is created, such person shall
3 achieve compliance with the renewables require-
4 ment under paragraph (2), and shall generate
5 or purchase additional renewables credits to off-
6 set the renewables deficit of the previous year.

7 “(6) SEASONAL VARIATIONS IN RENEWABLE
8 FUEL USE.—

9 “(A) STUDY.—For each of calendar years
10 2005 through 2015, the Administrator of the
11 Energy Information Administration, shall con-
12 duct a study of renewable fuels blending to de-
13 termine whether there are excessive seasonal
14 variations in the use of renewable fuels.

15 “(B) REGULATION OF EXCESSIVE SEA-
16 SONAL VARIATIONS.—If, for any calendar year,
17 the Administrator of the Energy Information
18 Administration, based on the study under sub-
19 paragraph (A), makes the determinations speci-
20 fied in subparagraph (C), the Administrator
21 shall promulgate regulations to ensure that 35
22 percent or more of the quantity of renewable
23 fuels necessary to meet the requirement of
24 paragraph (2) is used during each of the peri-



1 ods specified in subparagraph (D) of each sub-
2 sequent calendar year.

3 “(C) DETERMINATIONS.—The determina-
4 tions referred to in subparagraph (B) are
5 that—

6 “(i) less than 35 percent of the quan-
7 tity of renewable fuels necessary to meet
8 the requirement of paragraph (2) has been
9 used during one of the periods specified in
10 subparagraph (D) of the calendar year;

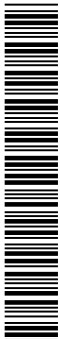
11 “(ii) a pattern of excessive seasonal
12 variation described in clause (i) will con-
13 tinue in subsequent calendar years; and

14 “(iii) promulgating regulations or
15 other requirements to impose a 35% or
16 more seasonal use of renewable fuels will
17 not prevent or interfere with the attain-
18 ment of national ambient air quality stand-
19 ards or significantly increase the price of
20 motor fuels to the consumer.

21 “(D) PERIODS.—The two periods referred
22 to in this paragraph are—

23 “(i) April through September; and

24 “(ii) January through March and Oc-
25 tober through December.



1 “(E) EXCLUSIONS.—Renewable fuels
2 blended or consumed in 2005 in a State which
3 has received a waiver under section 209(b) shall
4 not be included in the study in subparagraph
5 (A).

6 “(7) WAIVERS.—

7 “(A) IN GENERAL.—The Administrator, in
8 consultation with the Secretary of Agriculture
9 and the Secretary of Energy, may waive the re-
10 quirement of paragraph (2) in whole or in part
11 on petition by one or more States by reducing
12 the national quantity of renewable fuel required
13 under this subsection—

14 “(i) based on a determination by the
15 Administrator, after public notice and op-
16 portunity for comment, that implementa-
17 tion of the requirement would have a sig-
18 nificant and meaningful adverse impact on
19 the economy or environment of a State, a
20 region, or the United States, or will pre-
21 vent or interfere with the attainment of a
22 national ambient air quality standard in
23 any area of a State; or

24 “(ii) based on a determination by the
25 Administrator, after public notice and op-

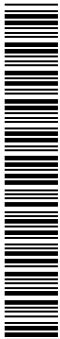


1 portunity for comment, that there is an in-
2 adequate domestic supply or distribution
3 capacity to meet the requirement.

4 “(B) PETITIONS FOR WAIVERS.—The Ad-
5 ministrator, in consultation with the Secretary
6 of Agriculture and the Secretary of Energy,
7 shall approve or disapprove a State petition for
8 a waiver of the requirement of paragraph (2)
9 within 90 days after the date on which the peti-
10 tion is received by the Administrator. If the Ad-
11 ministrator does not act to approve or dis-
12 approve a State petition for a waiver within 90
13 days, the Administrator shall publish a notice
14 setting forth the reasons for not acting within
15 the required 90-day period.

16 “(C) TERMINATION OF WAIVERS.—A waiv-
17 er granted under subparagraph (A) shall termi-
18 nate after 1 year, but may be renewed by the
19 Administrator after consultation with the Sec-
20 retary of Agriculture and the Secretary of En-
21 ergy.

22 “(8) STUDY AND WAIVER FOR INITIAL YEAR OF
23 PROGRAM.—Not later than 180 days from enact-
24 ment, the Secretary of Energy shall complete for the
25 Administrator a study assessing whether the renew-



1 able fuels requirement under paragraph (2) will like-
2 ly result in significant adverse consumer impacts in
3 2005, on a national, regional or State basis. Such
4 study shall evaluate renewable fuel supplies and
5 prices, blendstock supplies, and supply and distribu-
6 tion system capabilities. Based on such study, the
7 Secretary shall make specific recommendations to
8 the Administrator regarding waiver of the require-
9 ments of paragraph (2), in whole or in part, to avoid
10 any such adverse impacts. Within 270 days from en-
11 actment, the Administrator shall, consistent with the
12 recommendations of the Secretary waive, in whole or
13 in part, the renewable fuels requirement under para-
14 graph (2) by reducing the national quantity of re-
15 newable fuel required under this subsection in 2005.
16 This provision shall not be interpreted as limiting
17 the Administrator's authority to waive the require-
18 ments of paragraph (2) in whole, or in part, under
19 paragraph (7) or paragraph (9), pertaining to waiv-
20 ers.

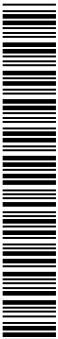
21 “(9) ASSESSMENT AND WAIVER.—The Sec-
22 retary of Energy, in consultation with the Adminis-
23 trator of the Environmental Protection Agency and
24 the Secretary of Agriculture on his own motion, or
25 upon petition of any State shall evaluate the require-



1 ment of paragraph (2) and determine, prior to Janu-
2 ary 1, 2007, or prior to January 1 of any subse-
3 quent year in which the applicable volume of renew-
4 able fuel is increased under paragraph (2)(B),
5 whether the requirement of paragraph (2), including
6 the applicable volume of renewable fuel contained in
7 paragraph (2)(B) should remain in effect, in whole
8 or in part, during 2007 or any year or years subse-
9 quent to 2007. In evaluating the requirement of
10 paragraph (2) and in making any determination
11 under this section, the Secretary shall consider the
12 best available information and data collected by ac-
13 cepted methods or best available means regarding—

14 “(A) the capacity of renewable fuel pro-
15 ducers to supply an adequate amount of renew-
16 able fuel at competitive prices to fulfill the re-
17 quirement in paragraph (2);

18 “(B) the potential of the requirement in
19 paragraph (2) to significantly raise the price of
20 gasoline, food or heating oil for consumers in
21 any significant area or region of the country
22 above the price that would otherwise apply to
23 such commodities in the absence of the require-
24 ment;



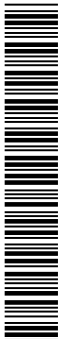
1 “(C) the potential of the requirement in
2 paragraph (2) to interfere with the supply of
3 fuel in any significant gasoline market or region
4 of the country, including interference with the
5 efficient operation of refiners, blenders, import-
6 ers, wholesale suppliers, and retail vendors of
7 gasoline, and other motor fuels; and

8 “(D) the potential of the requirement to
9 cause or promote exceedences of Federal, State,
10 or local air quality standards.

11 If the Secretary determines, after public notice and
12 the opportunity for comment, that the requirement
13 of paragraph (2) would have significant and mean-
14 ingful adverse impact on the supply of fuel and re-
15 lated infrastructure or on the economy, environment,
16 public health or environment of any significant area
17 or region of the country, the Secretary may waive,
18 in whole or in part, the requirement of paragraph
19 (2) in any one year or period of years as well as re-
20 duce the applicable volume of renewable fuel con-
21 tained in paragraph (2)(B) in any one year or period
22 of years.

23 “(10) SMALL REFINERIES.—

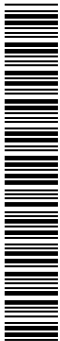
24 “(A) IN GENERAL.—The requirement of
25 paragraph (2) shall not apply to small refineries



1 until the first calendar year beginning more
2 than 5 years after the first year set forth in the
3 table in paragraph (2)(B)(i). Not later than De-
4 cember 31, 2006, the Secretary of Energy shall
5 complete for the Administrator a study to de-
6 termine whether the requirement of paragraph
7 (2) would impose a disproportionate economic
8 hardship on small refineries. For any small re-
9 finery that the Secretary of Energy determines
10 would experience a disproportionate economic
11 hardship, the Administrator shall extend the
12 small refinery exemption for such small refinery
13 for no less than two additional years.

14 “(B) ECONOMIC HARDSHIP.—

15 “(i) EXTENSION OF EXEMPTION.—A
16 small refinery may at any time petition the
17 Administrator for an extension of the ex-
18 emption from the requirement of para-
19 graph (2) for the reason of dispropor-
20 tionate economic hardship. In evaluating a
21 hardship petition, the Administrator, in
22 consultation with the Secretary of Energy,
23 shall consider the findings of the study in
24 addition to other economic factors.



1 “(ii) DEADLINE FOR ACTION ON PETI-
2 TIONS.—The Administrator shall act on
3 any petition submitted by a small refinery
4 for a hardship exemption not later than 90
5 days after the receipt of the petition.

6 “(C) CREDIT PROGRAM.—If a small refin-
7 ery notifies the Administrator that it waives the
8 exemption provided by this Act, the regulations
9 shall provide for the generation of credits by
10 the small refinery beginning in the year fol-
11 lowing such notification.

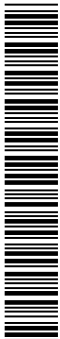
12 “(D) OPT-IN FOR SMALL REFINERS.—A
13 small refinery shall be subject to the require-
14 ments of this section if it notifies the Adminis-
15 trator that it waives the exemption under sub-
16 paragraph (A).”.

17 (b) PENALTIES AND ENFORCEMENT.—Section
18 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is
19 amended—

20 (1) in paragraph (1)—

21 (A) in the first sentence, by striking “or
22 (n)” each place it appears and inserting “(n) or
23 (o)”; and

24 (B) in the second sentence, by striking “or
25 (m)” and inserting “(m), or (o)”; and



1 (2) in the first sentence of paragraph (2), by
2 striking “and (n)” each place it appears and insert-
3 ing “(n), and (o)”.

4 (c) SURVEY OF RENEWABLE FUEL MARKET.—

5 (1) SURVEY AND REPORT.—Not later than De-
6 cember 1, 2006, and annually thereafter, the Admin-
7 istrator of the Environmental Protection Agency (in
8 consultation with the Secretary of Energy acting
9 through the Administrator of the Energy Informa-
10 tion Administration) shall—

11 (A) conduct, with respect to each conven-
12 tional gasoline use area and each reformulated
13 gasoline use area in each State, a survey to de-
14 termine the market shares of—

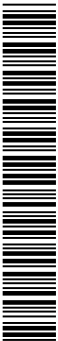
15 (i) conventional gasoline containing
16 ethanol;

17 (ii) reformulated gasoline containing
18 ethanol;

19 (iii) conventional gasoline containing
20 renewable fuel; and

21 (iv) reformulated gasoline containing
22 renewable fuel; and

23 (B) submit to Congress, and make publicly
24 available, a report on the results of the survey
25 under subparagraph (A).



1 (2) RECORDKEEPING AND REPORTING RE-
2 QUIREMENTS.—The Administrator may require any
3 refiner, blender, or importer to keep such records
4 and make such reports as are necessary to ensure
5 that the survey conducted under paragraph (1) is
6 accurate. The Administrator shall rely, to the extent
7 practicable, on existing reporting and recordkeeping
8 requirements to avoid duplicative requirements.

9 (3) APPLICABLE LAW.—Activities carried out
10 under this subsection shall be conducted in a man-
11 ner designed to protect confidentiality of individual
12 responses.

13 (4) CALCULATION OF MARKET SHARES.—Mar-
14 ket shares for conventional gasoline and reformu-
15 lated gasoline use areas will be calculated on a state-
16 wide basis using information collected under para-
17 graph (2) and other information available to the Ad-
18 ministrator. Market share information may be based
19 upon gasoline distribution patterns that include
20 multistate use areas.

21 **SEC. 17102. FUELS SAFE HARBOR.**

22 (a) IN GENERAL.—Notwithstanding any other provi-
23 sion of Federal or State law, no renewable fuel, as defined
24 by section 211(o)(1) of the Clean Air Act, or fuel con-
25 taining MTBE, used or intended to be used as a motor



1 vehicle fuel, nor any motor vehicle fuel containing such
2 renewable fuel or MTBE, shall be deemed defective in de-
3 sign or manufacture by virtue of the fact that it is, or
4 contains, such a renewable fuel or MTBE, if it does not
5 violate a control or prohibition imposed by the Adminis-
6 trator under section 211 of such Act, and the manufac-
7 turer is in compliance with all requests for information
8 under subsection (b) of such section 211(b) of the Clean
9 Air Act. If the safe harbor provided by this section does
10 not apply, the existence of a design defect or manufac-
11 turing defect shall be determined under otherwise applica-
12 ble law. Nothing in this paragraph shall be construed to
13 affect the liability of any person for environmental remedi-
14 ation costs, drinking water contamination, negligence,
15 public nuisance or any other liability other than liability
16 for a defect in design or manufacture of a motor vehicle
17 fuel.

18 (b) EFFECTIVE DATE.—This section shall be effec-
19 tive as of the date of enactment and shall apply with re-
20 spect to all claims filed on or after that date.

21 **SEC. 17103. FINDINGS AND MTBE TRANSITION ASSISTANCE.**

22 (a) FINDINGS.—Congress finds that—

23 (1) since 1979, methyl tertiary butyl ether (re-
24 ferred to in this section as “MTBE”) has been used



1 nationwide at low levels in gasoline to replace lead
2 as an octane booster or anti-knocking agent;

3 (2) Public Law 101–549 (commonly known as
4 the “Clean Air Act Amendments of 1990”) (42
5 U.S.C. 7401 et seq.) established a fuel oxygenate
6 standard under which reformulated gasoline must
7 contain at least 2 percent oxygen by weight;

8 (3) at the time of the adoption of the fuel oxy-
9 gen standard, Congress was aware that significant
10 use of MTBE would result from the adoption of that
11 standard, and that the use of MTBE would likely be
12 important to the cost-effective implementation of
13 that program;

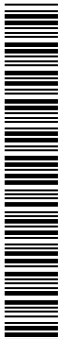
14 (4) Congress was aware that gasoline and its
15 component additives can and do leak from storage
16 tanks;

17 (5) the fuel industry responded to the fuel oxy-
18 genate standard established by Public Law 101–549
19 by making substantial investments in—

20 (A) MTBE production capacity; and

21 (B) systems to deliver MTBE-containing
22 gasoline to the marketplace;

23 (6) Congress has—



1 (A) reconsidered the relative value of the
2 oxygenate requirement for reformulated gaso-
3 line; and

4 (B) decided to provide for the elimination
5 of the oxygenate requirement for reformulated
6 gasoline and to provide for a renewable content
7 requirement for motor fuel; and

8 (7) it is appropriate for Congress to provide
9 some limited transition assistance—

10 (A) to merchant producers of MTBE who
11 produced MTBE in response to a market cre-
12 ated by the oxygenate requirement contained in
13 the Clean Air Act; and

14 (B) for the purpose of mitigating any fuel
15 supply problems that may result from the elimi-
16 nation of the oxygenate requirement for refor-
17 mulated gasoline.

18 (b) PURPOSES.—The purpose of this section is to
19 provide assistance to merchant producers of MTBE in
20 making the transition from producing MTBE to producing
21 other fuel additives.

22 (c) MTBE MERCHANT PRODUCER CONVERSION AS-
23 SISTANCE.—Section 211(c) of the Clean Air Act (42
24 U.S.C. 7545(c)) is amended by adding at the end the fol-
25 lowing:



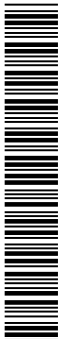
1 “(5) MTBE MERCHANT PRODUCER CONVER-
2 SION ASSISTANCE.—

3 “(A) IN GENERAL.—

4 “(i) GRANTS.—The Secretary of En-
5 ergy, in consultation with the Adminis-
6 trator, may make grants to merchant pro-
7 ducers of methyl tertiary butyl ether in the
8 United States to assist the producers in
9 the conversion of eligible production facili-
10 ties described in subparagraph (C) to the
11 production of iso-octane and alkylates.

12 “(ii) DETERMINATION.—The Admin-
13 istrator, in consultation with the Secretary
14 of Energy, may determine that transition
15 assistance for the production of iso-octane
16 and alkylates is inconsistent with the pro-
17 visions of subparagraph (B) and, on that
18 basis, may deny applications for grants au-
19 thorized by this provision.

20 “(B) FURTHER GRANTS.—The Secretary
21 of Energy, in consultation with the Adminis-
22 trator, may also further make grants to mer-
23 chant producers of MTBE in the United States
24 to assist the producers in the conversion of eli-
25 gible production facilities described in subpara-



1 graph (C) to the production of such other fuel
2 additives that, consistent with this subsection—

3 “(i) unless the Administrator deter-
4 mines that such fuel additives may reason-
5 ably be anticipated to endanger public
6 health or the environment;

7 “(ii) have been registered and have
8 been tested or are being tested in accord-
9 ance with the requirements of this section;
10 and

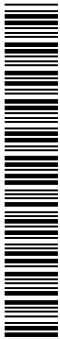
11 “(iii) will contribute to replacing gaso-
12 line volumes lost as a result of paragraph
13 (5).

14 “(C) ELIGIBLE PRODUCTION FACILI-
15 TIES.—A production facility shall be eligible to
16 receive a grant under this paragraph if the pro-
17 duction facility—

18 “(i) is located in the United States;
19 and

20 “(ii) produced methyl tertiary butyl
21 ether for consumption before April 1, 2003
22 and ceased production at any time after
23 the date of enactment.

24 “(D) AUTHORIZATION OF APPROPRIA-
25 TIONS.—There is authorized to be appropriated



1 to carry out this paragraph \$250,000,000 for
2 each of fiscal years 2004 through 2006, to re-
3 main available until expended.”.

4 (d) EFFECT ON STATE LAW.—The amendments
5 made to the Clean Air Act by this title have no effect re-
6 garding any available authority of States to limit the use
7 of methyl tertiary butyl ether in motor vehicle fuel.

8 **SEC. 17104. ELIMINATION OF OXYGEN CONTENT REQUIRE-**
9 **MENT FOR REFORMULATED GASOLINE.**

10 (a) ELIMINATION.—

11 (1) IN GENERAL.—Section 211(k) of the Clean
12 Air Act (42 U.S.C. 7545(k)) is amended—

13 (A) in paragraph (2)—

14 (i) in the second sentence of subpara-
15 graph (A), by striking “(including the oxy-
16 gen content requirement contained in sub-
17 paragraph (B))”;

18 (ii) by striking subparagraph (B); and

19 (iii) by redesignating subparagraphs
20 (C) and (D) as subparagraphs (B) and
21 (C), respectively;

22 (B) in paragraph (3)(A), by striking clause
23 (v);

24 (C) in paragraph (7)—

25 (i) in subparagraph (A)—



- 1 (I) by striking clause (i); and
2 (II) by redesignating clauses (ii)
3 and (iii) as clauses (i) and (ii), respec-
4 tively; and
5 (ii) in subparagraph (C)—
6 (I) by striking clause (ii); and
7 (II) by redesignating clause (iii)
8 as clause (ii); and

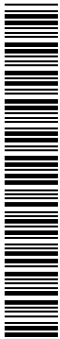
9 (2) EFFECTIVE DATE.—The amendments made
10 by paragraph (1) take effect 270 days after the date
11 of enactment of this Act, except that such amend-
12 ments shall take effect upon enactment in any State
13 that has received a waiver under section 209(b) of
14 the Clean Air Act.

15 (b) MAINTENANCE OF TOXIC AIR POLLUTANT EMIS-
16 SION REDUCTIONS.—Section 211(k)(1) of the Clean Air
17 Act (42 U.S.C. 7545(k)(1)) is amended—

18 (1) by striking “Within 1 year after the enact-
19 ment of the Clean Air Act Amendments of 1990,”
20 and inserting the following:

21 “(A) IN GENERAL.—Not later than No-
22 vember 15, 1991,”; and

23 (2) by adding at the end the following:

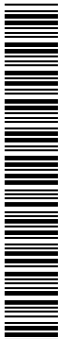


1 “(B) MAINTENANCE OF TOXIC AIR POL-
2 LUTANT EMISSIONS REDUCTIONS FROM REFOR-
3 MULATED GASOLINE.—

4 “(i) DEFINITIONS.—In this subpara-
5 graph the term ‘PADD’ means a Petro-
6 leum Administration for Defense District.

7 “(ii) REGULATIONS REGARDING EMIS-
8 SIONS OF TOXIC AIR POLLUTANTS.—Not
9 later than 270 days after the date of en-
10 actment of this subparagraph the Adminis-
11 trator shall establish, for each refinery or
12 importer, standards for toxic air pollutants
13 from use of the reformulated gasoline pro-
14 duced or distributed by the refinery or im-
15 porter that maintain the reduction of the
16 average annual aggregate emissions of
17 toxic air pollutants for reformulated gaso-
18 line produced or distributed by the refinery
19 or importer during calendar years 1999
20 and 2000, determined on the basis of data
21 collected by the Administrator with respect
22 to the refinery or importer.

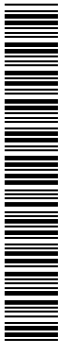
23 “(iii) STANDARDS APPLICABLE TO
24 SPECIFIC REFINERIES OR IMPORTERS.—



1 “(I) APPLICABILITY OF STAND-
2 ARDS.—For any calendar year, the
3 standards applicable to a refinery or
4 importer under clause (ii) shall apply
5 to the quantity of gasoline produced
6 or distributed by the refinery or im-
7 porter in the calendar year only to the
8 extent that the quantity is less than
9 or equal to the average annual quan-
10 tity of reformulated gasoline produced
11 or distributed by the refinery or im-
12 porter during calendar years 1999
13 and 2000.

14 “(II) APPLICABILITY OF OTHER
15 STANDARDS.—For any calendar year,
16 the quantity of gasoline produced or
17 distributed by a refinery or importer
18 that is in excess of the quantity sub-
19 ject to subclause (I) shall be subject
20 to standards for toxic air pollutants
21 promulgated under subparagraph (A)
22 and paragraph (3)(B).

23 “(iv) CREDIT PROGRAM.—The Admin-
24 istrator shall provide for the granting and
25 use of credits for emissions of toxic air pol-



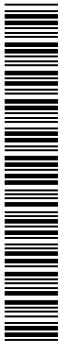
1 lutants in the same manner as provided in
2 paragraph (7).

3 “(v) REGIONAL PROTECTION OF
4 TOXICS REDUCTION BASELINES.—

5 “(I) IN GENERAL.—Not later
6 than 60 days after the date of enact-
7 ment of this subparagraph, and not
8 later than April 1 of each calendar
9 year that begins after that date of en-
10 actment, the Administrator shall pub-
11 lish in the Federal Register a report
12 that specifies, with respect to the pre-
13 vious calendar year—

14 “(aa) the quantity of refor-
15 mulated gasoline produced that is
16 in excess of the average annual
17 quantity of reformulated gasoline
18 produced in 1999 and 2000; and

19 “(bb) the reduction of the
20 average annual aggregate emis-
21 sions of toxic air pollutants in
22 each PADD, based on retail sur-
23 vey data or data from other ap-
24 propriate sources.



1 “(II) EFFECT OF FAILURE TO
2 MAINTAIN AGGREGATE TOXICS RE-
3 Ductions.—If, in any calendar year,
4 the reduction of the average annual
5 aggregate emissions of toxic air pol-
6 lutants in a PADD fails to meet or
7 exceed the reduction of the average
8 annual aggregate emissions of toxic
9 air pollutants in the PADD in cal-
10 endar years 1999 and 2000, the Ad-
11 ministrator, not later than 90 days
12 after the date of publication of the re-
13 port for the calendar year under sub-
14 clause (I), shall—

15 “(aa) identify, to the max-
16 imum extent practicable, the rea-
17 sons for the failure, including the
18 sources, volumes, and character-
19 istics of reformulated gasoline
20 that contributed to the failure;
21 and

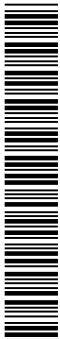
22 “(bb) promulgate revisions
23 to the regulations promulgated
24 under clause (ii), to take effect
25 not earlier than 180 days but not



1 later than 270 days after the
2 date of promulgation, to provide
3 that, notwithstanding clause
4 (iii)(II), all reformulated gasoline
5 produced or distributed at each
6 refinery or importer shall meet
7 the standards applicable under
8 clause (ii) not later than April 1
9 of the year following the report
10 in subclause (II) and for subse-
11 quent years.

12 “(vi) REGULATIONS TO CONTROL
13 HAZARDOUS AIR POLLUTANTS FROM
14 MOTOR VEHICLES AND MOTOR VEHICLE
15 FUELS.—Not later than July 1, 2004, the
16 Administrator shall promulgate final regu-
17 lations to control hazardous air pollutants
18 from motor vehicles and motor vehicle
19 fuels, as provided for in section 80.1045 of
20 title 40, Code of Federal Regulations (as
21 in effect on the date of enactment of this
22 subparagraph).”.

23 (c) CONSOLIDATION IN REFORMULATED GASOLINE
24 REGULATIONS.—Not later than 180 days after the date
25 of enactment of this Act, the Administrator shall revise

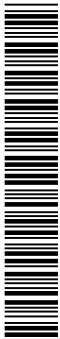


1 the reformulated gasoline regulations under subpart D of
2 part 80 of title 40, Code of Federal Regulations, to con-
3 solidate the regulations applicable to VOC-Control Re-
4 gions 1 and 2 under section 80.41 of that title by elimi-
5 nating the less stringent requirements applicable to gaso-
6 line designated for VOC-Control Region 2 and instead ap-
7 plying the more stringent requirements applicable to gaso-
8 line designated for VOC-Control Region 1.

9 (d) SAVINGS CLAUSE.—Nothing in this section is in-
10 tended to affect or prejudice either any legal claims or ac-
11 tions with respect to regulations promulgated by the Ad-
12 ministrator prior to enactment of this Act regarding emis-
13 sions of toxic air pollutants from motor vehicles or the
14 adjustment of standards applicable to a specific refinery
15 or importer made under such prior regulations and the
16 Administrator may apply such adjustments to the stand-
17 ards applicable to such refinery or importer under clause
18 (iii)(I) of section 211(k)(1)(B) of the Clean Air Act, ex-
19 cept that—

20 (1) the Administrator shall revise such adjust-
21 ments to be based only on calendar years 1999–
22 2000, and

23 (2) for adjustments based on toxic air pollutant
24 emissions from reformulated gasoline significantly
25 below the national annual average emissions of toxic



1 air pollutants from all reformulated gasoline, the
2 Administrator may revise such adjustments to take
3 account of the scope of any lawful and enforceable
4 Federal or State prohibition on methyl tertiary butyl
5 ether imposed after the effective date of the enact-
6 ment of this paragraph, except that any such adjust-
7 ment shall require such refiner or importer, to the
8 greatest extent practicable, to maintain the reduc-
9 tion achieved during calendar year 1999–2000 in the
10 average annual aggregate emissions of toxic air pol-
11 lutants from reformulated gasoline produced or dis-
12 tributed by the refinery or importer. Any such ad-
13 justment shall not be made at a level below the aver-
14 age percentage of reductions of emissions of toxic air
15 pollutants for reformulated gasoline supplied to
16 PADD I during calendar years 1999–2000.

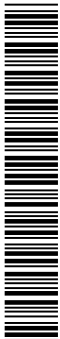
17 **SEC. 17105. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

18 Section 211 of the Clean Air Act (42 U.S.C. 7545)
19 is amended by inserting after subsection (o) the following:

20 “(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES
21 AND EMISSIONS MODEL.—

22 “(1) ANTI-BACKSLIDING ANALYSIS.—

23 “(A) DRAFT ANALYSIS.—Not later than 4
24 years after the date of enactment of this para-
25 graph, the Administrator shall publish for pub-



1 lic comment a draft analysis of the changes in
2 emissions of air pollutants and air quality due
3 to the use of motor vehicle fuel and fuel addi-
4 tives resulting from implementation of the
5 amendments made by title VII of the Energy
6 Policy Act of 2003.

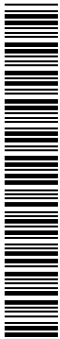
7 “(B) FINAL ANALYSIS.—After providing a
8 reasonable opportunity for comment but not
9 later than 5 years after the date of enactment
10 of this paragraph, the Administrator shall pub-
11 lish the analysis in final form.

12 “(2) EMISSIONS MODEL.—For the purposes of
13 this subsection, as soon as the necessary data are
14 available, the Administrator shall develop and final-
15 ize an emissions model that reasonably reflects the
16 effects of gasoline characteristics or components on
17 emissions from vehicles in the motor vehicle fleet
18 during calendar year 2005.”.

19 **SEC. 17106. DATA COLLECTION.**

20 Section 205 of the Department of Energy Organiza-
21 tion Act (42 U.S.C. 7135) is amended by adding at the
22 end the following:

23 “(m) RENEWABLE FUELS SURVEY.—(1) In order to
24 improve the ability to evaluate the effectiveness of the Na-
25 tion’s renewable fuels mandate, the Administrator shall



1 conduct and publish the results of a survey of renewable
2 fuels demand in the motor vehicle fuels market in the
3 United States monthly, and in a manner designed to pro-
4 tect the confidentiality of individual responses. In con-
5 ducting the survey, the Administrator shall collect infor-
6 mation both on a national and regional basis, including—

7 “(A) the quantity of renewable fuels produced;

8 “(B) the quantity of renewable fuels blended;

9 “(C) the quantity of renewable fuels imported;

10 “(D) the quantity of renewable fuels demanded;

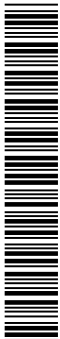
11 “(E) market price data; and

12 “(F) such other analyses or evaluations as the

13 Administrator finds is necessary to achieve the pur-
14 poses of this section.

15 “(2) The Administrator shall also collect or estimate
16 information both on a national and regional basis, pursu-
17 ant to subparagraphs (A) through (F) of paragraph (1),
18 for the five years prior to implementation of this sub-
19 section.

20 “(3) This subsection does not affect the authority of
21 the Administrator to collect data under section 52 of the
22 Federal Energy Administration Act of 1974 (15 U.S.C.
23 790a).”.



1 **SEC. 17107. FUEL SYSTEM REQUIREMENTS HARMONI-**
2 **ZATION STUDY.**

3 (a) STUDY.—

4 (1) IN GENERAL.—The Administrator of the
5 Environmental Protection Agency and the Secretary
6 of Energy shall jointly conduct a study of Federal,
7 State, and local requirements concerning motor vehi-
8 cle fuels, including—

9 (A) requirements relating to reformulated
10 gasoline, volatility (measured in Reid vapor
11 pressure), oxygenated fuel, and diesel fuel; and

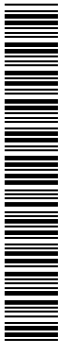
12 (B) other requirements that vary from
13 State to State, region to region, or locality to
14 locality.

15 (2) REQUIRED ELEMENTS.—The study shall
16 assess—

17 (A) the effect of the variety of require-
18 ments described in paragraph (1) on the supply,
19 quality, and price of motor vehicle fuels avail-
20 able to consumers in various States and local-
21 ities;

22 (B) the effect of the requirements de-
23 scribed in paragraph (1) on achievement of—

24 (i) national, regional, and local air
25 quality standards and goals; and



1 (ii) related environmental and public
2 health protection standards and goals;

3 (C) the effect of Federal, State, and local
4 motor vehicle fuel regulations, including mul-
5 tiple motor vehicle fuel requirements, on—

6 (i) domestic refineries;

7 (ii) the fuel distribution system; and

8 (iii) industry investment in new capac-
9 ity;

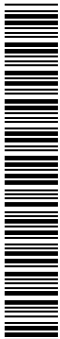
10 (D) the effect of the requirements de-
11 scribed in paragraph (1) on emissions from ve-
12 hicles, refineries, and fuel handling facilities;

13 (E) the feasibility of developing national or
14 regional motor vehicle fuel slates for the 48
15 contiguous States that, while improving air
16 quality at the national, regional and local levels
17 consistent with the attainment of national am-
18 bient air quality standards, could—

19 (i) enhance flexibility in the fuel dis-
20 tribution infrastructure and improve fuel
21 fungibility;

22 (ii) reduce price volatility and costs to
23 consumers and producers;

24 (iii) provide increased liquidity to the
25 gasoline market; and



1 (iv) enhance fuel quality, consistency,
2 and supply;

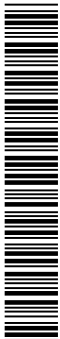
3 (F) the feasibility of providing incentives,
4 to promote cleaner burning motor vehicle fuel;
5 and

6 (G) the extent to which improvements in
7 air quality and any increases or decreases in
8 the price of motor fuel can be projected to re-
9 sult from the Environmental Protection Agen-
10 cy's Tier II requirements for conventional gaso-
11 line and vehicle emission systems, the reformu-
12 lated gasoline program, the renewable content
13 requirements established by this subtitle, State
14 programs regarding gasoline volatility, and any
15 other requirements imposed by States or local-
16 ities affecting the composition of motor fuel.

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than December 31,
19 2006, the Administrator of the Environmental Pro-
20 tection Agency and the Secretary of Energy shall
21 submit to Congress a report on the results of the
22 study conducted under subsection (a).

23 (2) RECOMMENDATIONS.—



1 (A) IN GENERAL.—The report shall con-
2 tain recommendations for legislative and admin-
3 istrative actions that may be taken—

4 (i) to improve air quality;

5 (ii) to reduce costs to consumers and
6 producers; and

7 (iii) to increase supply liquidity.

8 (B) REQUIRED CONSIDERATIONS.—The
9 recommendations under subparagraph (A) shall
10 take into account the need to provide advance
11 notice of required modifications to refinery and
12 fuel distribution systems in order to ensure an
13 adequate supply of motor vehicle fuel in all
14 States.

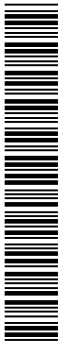
15 (3) CONSULTATION.—In developing the report,
16 the Administrator of the Environmental Protection
17 Agency and the Secretary of Energy shall consult
18 with—

19 (A) the Governors of the States;

20 (B) automobile manufacturers;

21 (C) motor vehicle fuel producers and dis-
22 tributors; and

23 (D) the public.



1 **SEC. 17108. COMMERCIAL BYPRODUCTS FROM MUNICIPAL**
2 **SOLID WASTE LOAN GUARANTEE PROGRAM.**

3 (a) DEFINITION OF MUNICIPAL SOLID WASTE.—In
4 this section, the term “municipal solid waste” has the
5 meaning given the term “solid waste” in section 1004 of
6 the Solid Waste Disposal Act (42 U.S.C. 6903).

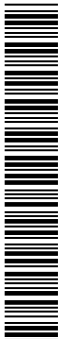
7 (b) ESTABLISHMENT OF PROGRAM.—The Secretary
8 of Energy shall establish a program to provide guarantees
9 of loans by private institutions for the construction of fa-
10 cilities for the processing and conversion of municipal solid
11 waste into fuel ethanol and other commercial byproducts.

12 (c) REQUIREMENTS.—The Secretary may provide a
13 loan guarantee under subsection (b) to an applicant if—

14 (1) without a loan guarantee, credit is not
15 available to the applicant under reasonable terms or
16 conditions sufficient to finance the construction of a
17 facility described in subsection (b);

18 (2) the prospective earning power of the appli-
19 cant and the character and value of the security
20 pledged provide a reasonable assurance of repayment
21 of the loan to be guaranteed in accordance with the
22 terms of the loan; and

23 (3) the loan bears interest at a rate determined
24 by the Secretary to be reasonable, taking into ac-
25 count the current average yield on outstanding obli-



1 gations of the United States with remaining periods
2 of maturity comparable to the maturity of the loan.

3 (d) CRITERIA.—In selecting recipients of loan guar-
4 antees from among applicants, the Secretary shall give
5 preference to proposals that—

6 (1) meet all applicable Federal and State per-
7 mitting requirements;

8 (2) are most likely to be successful; and

9 (3) are located in local markets that have the
10 greatest need for the facility because of—

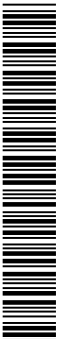
11 (A) the limited availability of land for
12 waste disposal; or

13 (B) a high level of demand for fuel ethanol
14 or other commercial byproducts of the facility.

15 (e) MATURITY.—A loan guaranteed under subsection
16 (b) shall have a maturity of not more than 20 years.

17 (f) TERMS AND CONDITIONS.—The loan agreement
18 for a loan guaranteed under subsection (b) shall provide
19 that no provision of the loan agreement may be amended
20 or waived without the consent of the Secretary.

21 (g) ASSURANCE OF REPAYMENT.—The Secretary
22 shall require that an applicant for a loan guarantee under
23 subsection (b) provide an assurance of repayment in the
24 form of a performance bond, insurance, collateral, or other



1 means acceptable to the Secretary in an amount equal to
2 not less than 20 percent of the amount of the loan.

3 (h) GUARANTEE FEE.—The recipient of a loan guar-
4 antee under subsection (b) shall pay the Secretary an
5 amount determined by the Secretary to be sufficient to
6 cover the administrative costs of the Secretary relating to
7 the loan guarantee.

8 (i) FULL FAITH AND CREDIT.—The full faith and
9 credit of the United States is pledged to the payment of
10 all guarantees made under this section. Any such guar-
11 antee made by the Secretary shall be conclusive evidence
12 of the eligibility of the loan for the guarantee with respect
13 to principal and interest. The validity of the guarantee
14 shall be incontestable in the hands of a holder of the guar-
15 anteed loan.

16 (j) REPORTS.—Until each guaranteed loan under this
17 section has been repaid in full, the Secretary shall annu-
18 ally submit to Congress a report on the activities of the
19 Secretary under this section.

20 (k) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated such sums as are nec-
22 essary to carry out this section.

23 (l) TERMINATION OF AUTHORITY.—The authority of
24 the Secretary to issue a loan guarantee under subsection



1 (b) terminates on the date that is 10 years after the date
2 of enactment of this Act.

3 **Subtitle B—MTBE Cleanup**

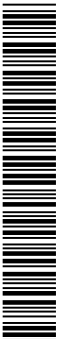
4 **SEC. 17201. FUNDING FOR MTBE CONTAMINATION.**

5 Notwithstanding any other provision of law, there is
6 authorized to be appropriated to the Administrator of the
7 United States Environmental Protection Agency from the
8 Leaking Underground Storage Tank Trust Fund not more
9 than \$850,000,000 to be used for taking such action lim-
10 ited to site assessment (including exposure assessment),
11 corrective action, inspection of underground storage tank
12 systems, and groundwater monitoring as the Adminis-
13 trator deems necessary to protect human health, welfare,
14 and the environment from underground storage tank re-
15 leases of fuel containing fuel oxygenates.

16 **TITLE VIII—AUTOMOBILE**
17 **EFFICIENCY**

18 **SEC. 18001. AUTHORIZATION OF APPROPRIATIONS FOR IM-**
19 **PLEMENTATION AND ENFORCEMENT OF**
20 **FUEL ECONOMY STANDARDS.**

21 In addition to any other funds authorized by law,
22 there are authorized to be appropriated to the National
23 Highway Traffic Safety Administration to implement and
24 enforce average fuel economy standards \$5,000,000 for
25 fiscal years 2004 through 2006.



1 **SEC. 18002. STUDY OF FEASIBILITY AND EFFECTS OF RE-**
2 **DUCING USE OF FUEL FOR AUTOMOBILES.**

3 (a) IN GENERAL.—Not later than 30 days after the
4 date of the enactment of this Act, the Administrator of
5 the National Highway Traffic Safety Administration shall
6 study the feasibility and effects of reducing by model year
7 2012, by a significant percentage, the use of fuel for auto-
8 mobiles.

9 (b) SUBJECTS OF STUDY.—The study under this sec-
10 tion shall include—

11 (1) examination of, and recommendation of al-
12 ternatives to, the policy under current Federal law
13 of establishing average fuel economy standards for
14 automobiles and requiring each automobile manufac-
15 turer to comply with average fuel economy standards
16 that apply to the automobiles it manufactures;

17 (2) examination of how automobile manufactur-
18 ers could contribute toward achieving the reduction
19 referred to in subsection (a);

20 (3) examination of the potential of fuel cell
21 technology in motor vehicles in order to determine
22 the extent to which such technology may contribute
23 to achieving the reduction referred to in subsection
24 (a); and

25 (4) examination of the effects of the reduction
26 referred to in subsection (a) on—



1 (A) gasoline supplies;

2 (B) the automobile industry, including
3 sales of automobiles manufactured in the
4 United States;

5 (C) motor vehicle safety; and

6 (D) air quality.

7 (c) REPORT.—The Administrator shall submit to the
8 Congress a report on the findings, conclusion, and rec-
9 ommendations of the study under this section by not later
10 than 1 year after the date of the enactment of this Act.

